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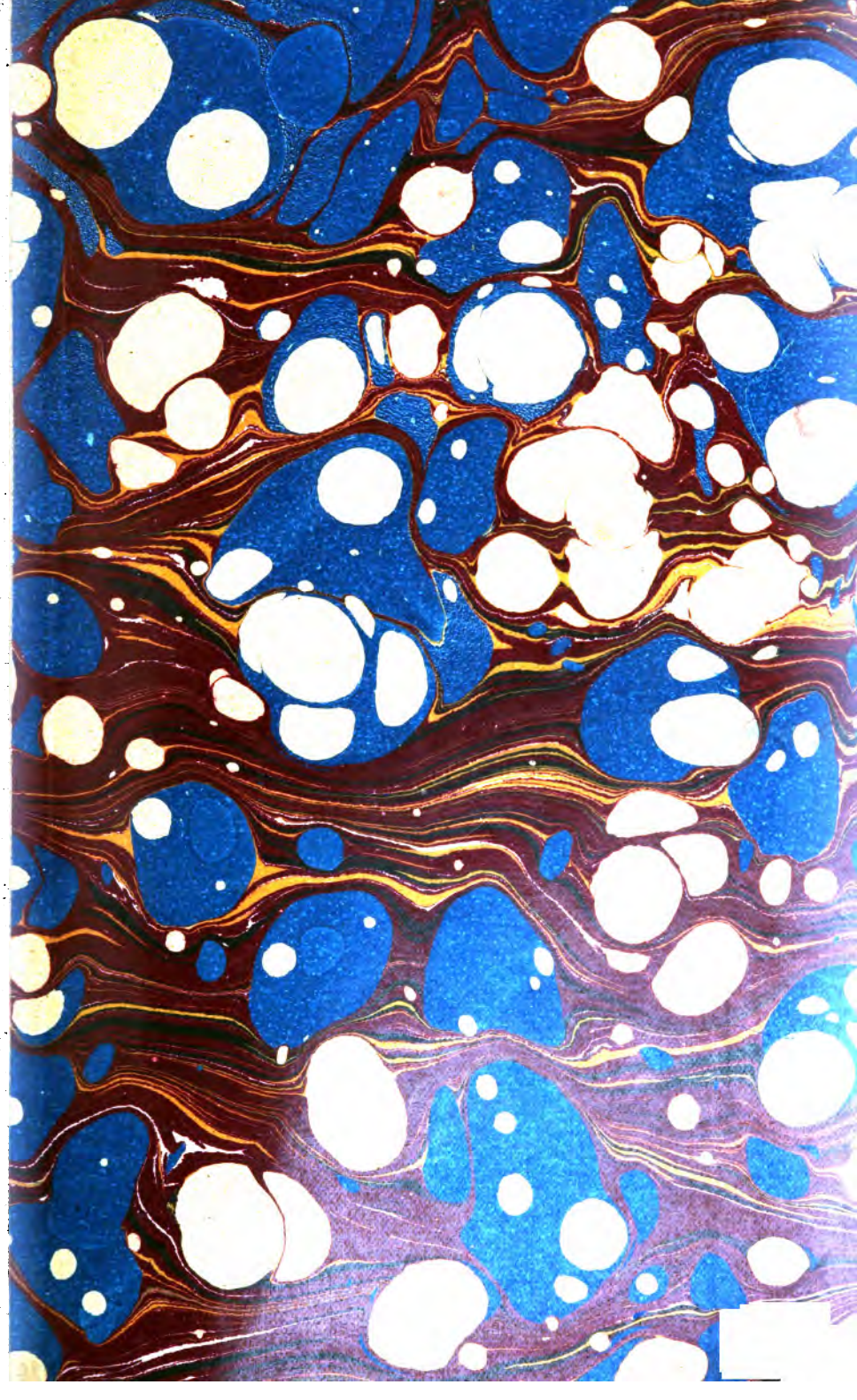

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and the

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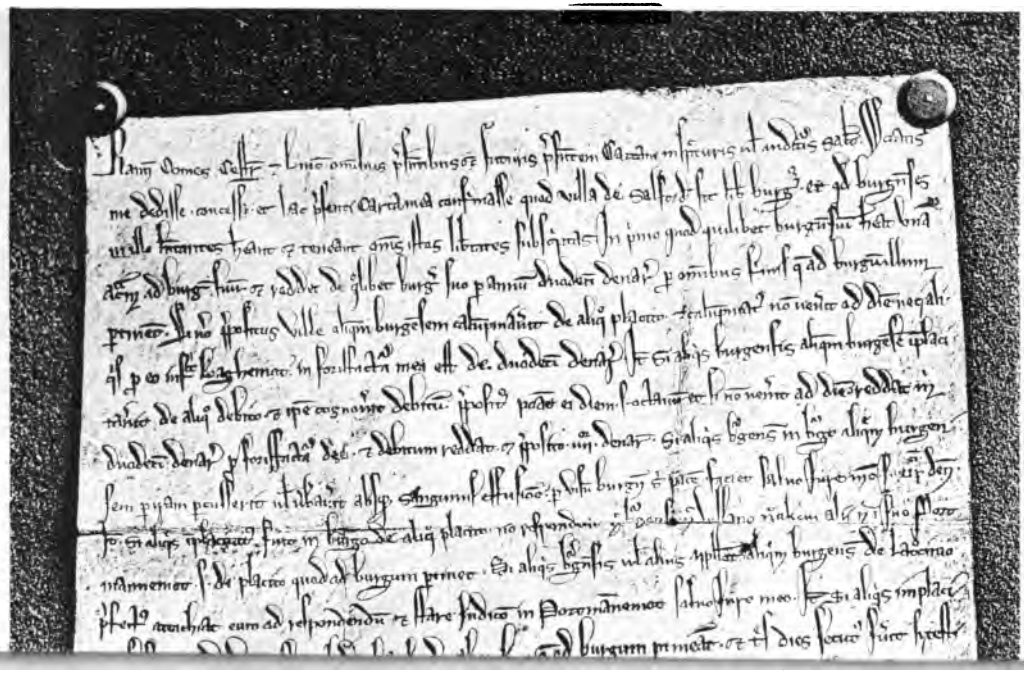

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Mediæval Manchester

and the

Beginnings of Lancashire

BY

JAMES TAIT M.A.

Professor of Ancient and Mediæval History

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To

My Father and Mother

PREFACE.

THE studies included in this volume have grown out of two lectures on Manchester under lords of the manor delivered some years ago on the Warburton foundation at Owens College. In collecting the material for these lectures I found myself much hampered by the errors and unscientific method of the existing local histories. The treatment of the early history of Manchester and its lords in the latest edition of Edward Baines' history of the county, is inadequate, where it is not absolutely misleading. Harland's "Mamecestre" is the work of a most worthy and industrious antiquary; but the editing of most of the documents he prints is unscholarly and his commentary upon them is a diffuse and far from satisfactory compilation. Neither of these writers really grapples with the difficult and interesting problems connected with the growth of local administrative areas which confront us when we examine the beginnings of the town and the county. We look in vain to them for any explanation of the late appearance of a county of Lancaster; yet without this explanation the story of the manor and barony of Manchester cannot be properly understood. Nor do they throw any light upon the seeming paradox that Manchester, which in the 13th century was described as a borough, should in the 14th have been officially denied that title.

Under these circumstances, it seemed desirable not to

publish the lectures as they stood, but to expand them into a volume which might correct some of the misapprehensions and repair a portion of the omissions to which allusion has been made. Considerable progress had been made with the work, when the appearance of Mr. William Farrer's "Lancashire Pipe Rolls" and his contributions to the publications of the local historical societies, put the study of Lancashire history in the middle ages on an entirely different footing. The necessity of taking into account the material first made accessible by Mr. Farrer, and the pressure of other work, are accountable for the delay in the publication of the book.

The Warburton lectures, the first partly rewritten, the second practically unchanged, form the two opening chapters. In those which follow some of the more important points dealt with in the lectures are worked out in greater detail. For certain repetitions consequent on the adoption of this plan the reader's indulgence is asked.

The four chapters grouped together under the title of "Mediæval Manchester" provide a succinct survey of the history of the place in the feudal age, from the 11th to the 14th century. It is a formative period whose chief interest turns upon problems of origins to resolve which demands the most careful scrutiny of a not too abundant body of evidence. Special attention has been given to the growth of the town as distinct from the manor, and an attempt is made to reconcile Manchester's possession of burgesses, a borough court and a borough reeve with the formal decision of 1359 that she was no borough, but only a market town. This is a subject upon which the investigations of Miss Bateson and others into the origin of our boroughs have of late thrown much light, and it is now possible to give a much more

satisfactory account of the beginnings of urban Manchester than was in the power of the older writers on its history.

That Thomas Grelley, in granting a charter to his burgesses at Manchester in 1301 took as his model that bestowed seventy years before by Randle de Blundeville, earl of Chester, upon the adjoining town of Salford, is sufficiently well known. But the much closer similarity between the Salford and Stockport charters has attracted less attention. The latter is generally regarded as the earlier in point of time. I have ventured, however, to advance some reasons in favour of attributing it to a considerably later date, about midway between those of Salford and Manchester.

In order to facilitate their comparison, the three charters have for the first time been printed in parallel columns. The clauses are rearranged in accordance with the subjects dealt with in them, and it is hoped that the study of the documents will thus be greatly assisted. Each group of clauses is furnished with a full commentary quoting parallel instances in other boroughs. A free translation of the Manchester charter and a facsimile of that of Salford which, unlike the others, does not appear to have been reproduced before, are added.

In the first chapter of the second section of the book is traced the gradual process by which the county of Lancaster, one of the latest of our English shires, came into existence by the amalgamation of districts which had seemed likely to go their separate ways, as part of the wider honour of Lancaster created by William Rufus, and the ultimate attainment by this portion of the honour to a position among the recognised administrative counties of the country. The second chapter investigates the status of the Lancashire barons—including the barons of Manchester—and draws attention to the fact that barons

who held of mesne lords and not directly of the crown were commoner in the first age after the Norman conquest than is usually supposed.

I may perhaps be allowed, in conclusion, to remark on the accidental appropriateness with which the first volume of the historical series of the publications of the University of Manchester chances to be a study of Manchester history by a Manchester man.

My debt to the work of Professor Maitland, Miss Bateson and Mr. Farrer is apparent on almost every page. Miss Bateson has been kind enough to read the proofs of Chapter iii., and suggest several corrections which I have endeavoured to incorporate. In preparing the map of the manor of Manchester free use has been made of Mr. Farrer's admirable map of Lancashire prefixed to his "Lancashire Pipe Rolls." My thanks are also due to Mr. Hubert Hall, of the Public Record Office, and to Mr. Thomas Seccombe for kind assistance in the consultation of authorities.

JAMES TAIT.

The University, Manchester,
June 6th, 1904.

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Mediæval Manchester

THE MANOR OF MANCHESTER & ITS MEMBERS &c. IN 1320.

Mediæval Manchester.

Chapter I.

The Parish, Manor and Barony.

Manchester, as its name proclaims, is a place of high antiquity, though time and the effacing finger of modern industry have left but scanty traces of its long past. Its site at the confluence of the rivers which seam the moorlands beneath the Pennine Range and commanding the gap between the hills and the impassable mosses west of the meeting of Mersey and Irwell, was marked out by nature for early settlement as it was foredestined to be a great centre of commerce when, in the course of ages, these converging vallies came to be filled with the whirr of loom and spinning mule. A lift of red sandstone raises the position above the reach of floods, "els," as Leland quaintly remarks, "Irwel as wel apperith in the West Ripe (bank) had been noisful to the Toune."[1]

But with the dim beginnings of the settlement, British and Roman, which afforded imaginative Dr. Whitaker material for a couple of volumes, we are here only very indirectly concerned. The legible history of mediæval Manchester begins with an entry of exasperating brevity in the Anglo-Saxon Chronicle under the year 923. The re-conquest of Danish Mercia by King Edward the Elder brought him in that year to the banks of the Mersey, then the Mercian boundary on the north-west, and, while he built a fort at Thelwall, on the south side of the

1. *Itinerary* (ed. Hearne), v. 94.

river, he sent a detachment of Mercians up stream "to Mameceaster, in Northumbria, to repair and man it."

This passage raises two points which compel us to look back for a moment to the days of the Roman occupation. The first is the form in which the name of the place is given. There is no question of an error, for Mamecestre with two "m's" is the only spelling used throughout the Middle Ages. Mamecestre, however, cannot very well be derived from *Mancunium*, the usually accepted Latin name of the place. This seems to tell in favour of the form *Mamucium*, which also occurs in the Itinerary of Antonine; but Mr. Henry Bradley has suggested that both forms may be altered from a common archetype, which was perhaps *Mammium*. This he would tentatively derive from the Celtic *mamma*, "mother."[1]

The other point raised by the passage in the Chronicle relates to the locality of the fortification repaired and garrisoned by Edward's Mercians. It seems natural to identify it with the Roman camp at Castlefield in the angle between the Irwell and the Medlock, of which considerable portions were still standing in Whitaker's time.[2] But this is disputed by a local antiquarian, Mr. Charles Roeder, who has done splendid service in observing and recording the scanty traces of Roman Manchester. Mr. Roeder argues that the station at Castlefield must have been deserted and in ruins, and that the position occupied and strengthened could only have been the natural fortification, formed by the rocky eminence encircled by the Irwell, Irk and the trench whose line is preserved by Hanging Ditch, which was the nucleus of the mediæval town.[3] Here the parish church has

1. *English Historical Review*, xv. 495.

2. His "History of Manchester" appeared between 1771 and 1775.

3. *Trans. Lanc. & Chesh. Antiquarian Soc.*, xvii. 87-212. (Pub. separately under the title of "Roman Manchester," 1900.)

apparently always stood, and here the Norman barons built their Hall. That this from the first was the English Mameceaster can hardly be doubted, but in the 10th century the name might very well cover the old Roman fortress, less than a mile away, to which it had originally belonged.[1] As part of the walls were still standing to a height of ten feet as late as 1765, there is no good reason to suppose that eight centuries earlier, before it was used as a quarry for the town bridges, it could not have been very easily made defensible enough to serve as one of those advanced military posts with which Edward secured and extended his conquests.[2] The point, however, is not one on which it is possible to speak with much confidence.

After this brief and tantalising lifting of the veil it drops, and we hear no more of Mameceaster for over a century. But we know that Edward's advance did not stop here. The land between Ribble and Mersey was detached from Northumbria, became royal demesne and was incorporated in the Mercian diocese of Lichfield, in which it remained until the creation of the see of Chester by Henry VIII. The system of assessment for the payment of (Dane) geld prevalent in Northumbria and other Danish districts in which the carucate is the unit, was assimilated here to the system used in Cheshire and English Mercia generally, in which the unit is the hide, and a great reduction of liability was simultaneously effected by the expedient of reckoning every six carucates as one hide.[3] It is impossible to say whether the division of the

1. Mr. Roeder, however, holds that this assumption is unnecessary. On the strength of some traces of British and Roman occupation of the position between Irk and Irwell he concludes that there were two stations, an original "Brito-Roman" camp on this site called *Mamucium* (whence Mameceaster), and the later purely Roman *castrum* at Castlefield, which bore the name of *Mancunium*. But even if the existence of a second station were proved it would be highly hazardous to assign the *Mamucium* of Iter II. of the Itinerary to it and the *Mancunium* of Iter X. to the other.

2. The name Alport (old town) still clings to the vicinity of this camp.

3. *Domesday Book*, i. 269 *b*.

district into six areas for judicial and other purposes dated from the days when it was a Northumbrian dependency, but in any case they were henceforth frequently called hundreds, as in English Mercia, though the Danish name wapentake was more generally applied to them. There must also have been a considerable influx of population from Mercia, for the dialect and place names of South Lancashire, while preserving many traces of the Northumbrian connection,[1] show Mercian affinites which are absent north of the Ribble. This assimilation to Mercia explains the position allotted to "Inter Ripam et Mersam" ("between Ribble and Mersey") in Domesday Book, in which it is surveyed as a sort of appendage to Cheshire, while the northern half of the present Lancashire which had remained Northumbrian is surveyed with Yorkshire. The ultimate union of the two districts, despite their divergencies, in a single county, was made possible by William Rufus when he gave them both to Count Roger the Poitevin, a younger son of the famous Roger of Montgomery, Earl of Shrewsbury.[2] Count Roger forfeited these with his other fiefs by rebellion in 1102, but they were only once afterwards divided for a brief season. Henry I. soon (before 1115-8 probably) re-granted them with the rest of the Honour of Lancaster, as Roger the Poitevin's great possessions here and in Lincolnshire and other counties came to be called, to his nephew Stephen of Blois. The anarchy of Stephen's reign endangered the unification of Lancashire, as it did so much else, and for a few years the two halves of the future county parted company, the northern falling into the hands of David

1. Another memorial of this connection is the dedication of two of its most ancient churches, Winwick and Warrington, to Northumbrian saints, St. Oswald and St. Elfin (*ibid.*)

2. William the Conqueror had given him "Between Ribble and Mersey," Amounderness, and a few manors in the neighbourhood of Lancaster, but with the exception of these last, which do not appear to have included Lancaster itself, this grant had reverted to the Crown before the date of Domesday. For suggested explanations of this resumption see *infra*, "Beginnings of Lancashire," ch. 1.

king of Scotland, and the southern into those of the powerful and unscrupulous Randle "Gernons," earl of Chester. Randle, however, secured a grant of the Scot King's share, and on the accession of Henry II. both were restored to Stephen's second son William, Earl of Warrenne and Count of Boulogne and Mortain. He died in the retreat from Toulouse in 1159, and after a brief tenure by his widow the crown resumed possession. By 1169 the two districts were so far fused into one as to be designated "the county of Lancaster" (*Comitatus de Lancastra*). It was not yet indeed accounted a full-fledged English shire. To the officials of Henry II. it was a section of the great eschaeted Honour of Lancaster which, for convenience, had a shire organisation. The honour, and not the county, was the fiscal unit for whose revenue the sheriff of Lancaster accounted to the Exchequer. The royal justices perhaps still held separate assizes in the two divisions of the county. At any rate, in 1179 they were directed to go to Lancaster and also to "Between Ribble and Mersey." The grant of the honour by Richard to his brother John, then Count of Mortain, in 1189 forms a turning point in the history of the county. This, as John discovered, was the really profitable part of the honour, and when, after five years, he forfeited all his fiefs by treason and the Lancaster estates once more appeared in the royal accounts, the officials of the Exchequer began to speak loosely of the county of Lancaster where honour would have been technically correct. The county henceforth definitely took its place among the shires of England. It still remained part of the Honour, but it was as the predominant partner. The rest was little more than outlying knights' fees. It was the vast additions from estates forfeited in the Barons' wars bestowed with it by Henry III. on his son Edmund,

the first Earl of Lancaster, which made the honour (created a duchy in 1351), as distinguished from the county, once more important. But the county was now to all intents and purposes independent.[1]

Lancashire has some claim to be (with the exception of Durham and Monmouthshire) the youngest of English counties, and by the side of Manchester, to whose early history we must now return, is almost a thing of yesterday. The first mention of Manchester after the coming of Edward the Elder's Mercian garrison is in Domesday Book. It is but a single line that is given to the place by name, but it sheds a welcome gleam of light upon the preceding obscurity. In the days of Edward the Confessor Manchester had formed part of the royal manor of Salford, the centre of the great hundred of Salford, afterwards often called Salfordshire, which comprised the whole basin of the Irwell and its tributaries. With the other five hundreds which then existed between the Ribble and the Mersey, Salfordshire had been given by the Conqueror to Roger the Poitevin, but in 1086 they were all again in the hands of the King. The direct reference to Manchester runs thus:—"The Church of St. Mary and the Church of St. Michael hold in Manchester one ploughland free from all burdens save Danegeld."[2] The Church of St. Mary was undoubtedly the Saxon predecessor of the Cathedral. But what of St. Michael's? The apparent existence of two churches where only one church ought to be sorely exercised generations of Manchester antiquaries, and the best suggestion they could offer was that there may have been a second church at Alport by the old Roman fortress. But for this there is not a tittle of evidence, and as a matter of fact St. Michael can be

1. For a detailed account of the early relation between the honour and the county see *infra*.
2. D.B., i. 270.

identified in a very different quarter. The difficulty only arose from the assumption that both churches must be looked for in the *township* of Manchester. Those who made this assumption forgot or had failed to grasp that in feudal terminology Manchester covered a good deal more than the township. Once we have observed that at a date not very remote from that of the entry the manor or lordship of Manchester was divided between two parishes, the clue is in our hands. In the thirteenth century the bulk of it lay in the vast parish of Manchester, but the sub-manor of Ashton-under-Lyne formed a small parish by itself, and Ashton church was, and still is, dedicated to St. Michael. As its advowson belonged to the lords of Manchester it was probably a daughter church of St. Mary's. It is not impossible indeed that St. Mary's was the original mother church of the whole hundred, for Salford, the royal manor which formed the centre of the hundred, was in the parish of Manchester. The endowment of St. Mary's can be identified. In 1320 it comprised the land between Deansgate and the Irwell still called Parsonage and two extensive estates lying east of the town Newton (Newton Heath) and the significantly named Kirkmanshulme, *i.e.*, churchman's meadow.[1] This last, however, had not been acquired until a century after the Norman Conquest. It is this association which accounts for Kirkmanshulme being now in the township of Newton, though they are quite two miles apart. The Dean and Canons of the Cathedral are still the chief ground landlords in Newton and Kirkmanshulme which are now largely built over.

Lancashire parishes were proverbially large, and that of Manchester was no exception to the rule. It contained about sixty square miles, being bounded on the south by

1. Harland, *Mamecestre*, p. 274.

the Mersey from Stockport to the confines of Urmston, on the west by the parishes of Flixton and Eccles, on the north by that of Prestwich-cum-Oldham, and on the east by Ashton parish and the river Tame. This vast district is now divided into no fewer than 30 townships, and cut up into numerous parishes of modern creation. Such extensive parishes bespeak the poverty and scanty population of the North as compared with the more favoured regions where single township parishes were common. The total population in 1086 of the whole hundred of Salford, an area of 350 square miles, is estimated to have been little more than 3,000 souls,[1] and two centuries after it contained only 10 parishes. By that time, however, the process of providing the more remote parts of the parish of Manchester with dependent chapels had begun. Didsbury Chapel, the oldest of them all (if we leave Ashton-under-Lyne church out of account), came into existence early in the 13th century. Stretford had its chapel in the 14th, and the 16th saw the foundation of six others—Chorlton, Denton, Blackley, Gorton, Newton and Birch. No credit for this decentralisation belongs to the mother church. The chapels were originally established by local families, like the Longfords at Didsbury, the Traffords at Stretford and the Byrons at Blackley and Gorton, for the use of themselves and their tenants. The parish church did not part with any of its handsome income, which in the 13th century was already equal to an annual revenue of between £2,000 and £3,000 nowadays.[2] With the modern growth of the district the parochial revenues have increased until they now amount to £34,000 a year. On the creation of the bishopric of Manchester, in 1848, these revenues were divided between the see and the parish,

1. *Trans. of Lanc. & Chesh. Antiq. Soc.*, xvi. 34. At the present time the ancient parish of Manchester alone contains nearly one million of people.
2. 200 marks in 1282 (Harland, *Mamecestre*, p. 167).

and, according to a recent statement, after providing for the maintenance of the Cathedral and some other expenses, about £22,000 remains available for the benefit of the 122 parishes and ecclesiastical districts which have been formed within the ancient parish. The existence of this revenue still keeps alive the unity of the old undivided parish. Churchwardens and sidesmen continue to be elected for its various townships at the annual Easter Vestry, but outside the residuary parish they have no duties except in a few cases where they are charged with the distribution of certain charities.

The township of Salford, though on the right bank of the Irwell, lay in the parish of Manchester, and there is reason to believe that previous to the crown grant to Roger the Poitevin the King's manor house at Salford had been the civil centre of the district which had St. Mary's for its ecclesiastical centre. During Roger's tenure in all probability, and in any case not long after, the whole of that far greater part of the parish which lay on the left bank of the river, with the exception of Broughton, was cut off from the Salford demesne and bestowed upon an under-tenant in return for military service. Of the five knights enfeoffed by Roger in the hundred of Salford before the date of Domesday one Nigel received a much larger fief than any of the others, containing rather more than three hides. The barony of Manchester, which appears not long afterwards, was certainly the most extensive fief in the hundred, and if it be safe to assume that Roger's first territorial apportionment was not seriously revised, Nigel will head the list of lords of Manchester. Nothing is really known about him. Some identify him with Nigel de Stafford,[1] younger

1. *Trans. Lanc. & Chesh. Antiq. Soc.*, xvi. 32. He is confused here with his (presumed) elder brother Robert, the founder of the Stafford family. Cf. p. 121.

brother of the ancestor of the "princely Buckingham" of Richard III.'s time, and himself the founder of a Derbyshire family, the Gresleys, of Drakelow and Castle Gresley, which still flourishes. It must be confessed, however, that this identification is highly conjectural.

In any case Nigel's tenure must have been brief. He disappears after 1086, and there is practically little doubt that the barony of Manchester was created by Roger the Poitevin on the restoration of "Between Ribble and Mersey" to him by William Rufus.

Roger retained Salford in demesne, and demesne it always remained, whether Roger's fief was in the hands of the crown or of some great subject. Since Henry of Lancaster became King Henry IV. it has been held by the sovereign as parcel of the demesne of the Duchy of Lancaster. King Edward VII. is therefore lord of the manor of Salford. Manchester never again became demesne, and has thus had a lowlier line of lords. Salford never owed obedience to a superior beneath the rank of an earl. Her larger neighbour belonged to simple barons, and even for a brief season to a cloth-worker of London.

Thus a stroke of a Norman baron's pen divorced Manchester and Salford in all but their devotions, and what he sundered no one has been able to bring together again, though they have long ceased to be separated by green fields sloping down to a trout stream. A stranger who found himself in Deansgate and wanted to know why two types of tramcar were running in what seemed to him a single city would be mightily astonished if we told him that this was the doing of a foreign count of the 11th century. But so it is. It may be doubted whether it occurred to any citizen of Manchester resident in Broughton who, during the recent deadlock between the two tramway committees, was turned out of the car at the city

boundary and had to walk several hundred yards in the rain to catch a Salford car, to curse the memory of Count Roger the Poitevin. He might have done this with some justice.

Whatever may be the truth as to Nigel's tenure of Manchester, the fief is found soon after in the possession of the Grelleys,[1] who held it for two centuries. There is some reason to believe that Albert Greslet or Grelley, the founder of the family, who held land elsewhere of Roger in 1086, was established by him at Manchester in the reign of Rufus. But the first positive evidence of their connection with the place belongs to a date subsequent to Albert's death. Robert Grelley, the second of the line, towards the close of the next reign founded a Cistercian abbey on his Lincolnshire estate at Swineshead, and among its endowments mention is made of Manchester Mill. If this be correct, however, the gift must have been afterwards revoked or an exchange effected, for in 1282 the Grelley of that date was drawing an annual revenue of some £17 from the mill.[2] Originally only under-tenants of Count Roger's great honour, though their possessions were as extensive as those of many barons holding in chief, they connected themselves with the greater baronage by judicious marriages and became not inconsiderable tenants-in-chief themselves. The earlier heads of the house do not seem to have enjoyed more than a local importance. But in the 13th century two of its members played a prominent part in national politics. Robert Grelley, great-grandson of the first Robert, married a niece of William Longchamp, Richard I.'s famous Chancellor, took part with other northern barons in extorting Magna Carta from King John, and suffered

1. The Grelleys must be carefully distinguished from the Derbyshire Gresleys, with whom they have often been confused. See *infra*, ch. iv.
2. Harland, *Mamecestre*, p. 133.

forfeiture in consequence. It was in the family abbey at Swineshead that John made the injudicious meal of peaches and new beer which caused his death. Robert recovered his lands under Henry III., and he it was who secured for Manchester the privilege of an annual fair. His son Thomas played a similar part in the great crisis of 1258, figured in two of the baronial committees appointed under the Provisions of Oxford and became chief justice of the royal forests south of Trent. Robert, his grandson and successor, married a great-granddaughter of Hubert de Burgh and niece of John Balliol, king of Scotland. The male line ended with their son Thomas, whose only distinction is his grant of a charter to the town of Manchester in 1301. He died unmarried some ten years later, having in his lifetime conveyed his principal estates to his sister, who had married the head of the baronial family of La Warr or de la Warr (the "de" seems comparatively modern) of Wickwar, in Gloucestershire.[1]

Joan Grelley was no mean heiress. Her broad lands were far from being confined to Lancashire. Her ancestor Albert Greslet had been given lands by Roger the Poitevin in the eastern and midland parts of his great fief as well as in its north-western portion. The Grelleys held manors of the Honour of Lancaster in Norfolk, Suffolk, Nottinghamshire, and above all in Lincolnshire. In 13th century language they had lands both "within the Lyme" and "without the Lyme." The "Lyme" (*Lima*) was the mountain barrier which formed, and still forms, the eastern boundary of the county of Lancaster.[2] It

1. For a fuller account of the Grelley family see *infra*, ch. iv.

2. Ashton under *Lyne*, the neighbouring *Lime* and *Lime*hurst, and *Lyme* Edge near Stalybridge, recall its old name, which extended to its southern continuation as names like *Lyme* Park and Newcastle under *Lyme* remain to attest. Randle de Blundeville, Earl of Chester, in his charter to his barons (Ormerod, i. 53) in consideration of their onerous military duties within Cheshire, excused them any compulsory service "extra Limam," *i.e.*, east of Cheshire. "Cestrie provincia," says Camden (quoting Lucian the Monk), "Limae nemoris limite lateraliter clausa est."

afforded a convenient means of concisely distinguishing lands of the Honour which lay in that county and those situate in others.

The military service by which the Grelleys and their successors held these estates from the lord of the Honour included a share in the defence of Lancaster Castle and the finding of twelve knights when required. Of the twelve more than half were provided with land "without the Lyme," chiefly in Lincolnshire. The castle-guard at Lancaster was early commuted for a money payment, and "scutage" enabled knight service also to be reduced to terms of money. This simplified the division of knights' fees. Pilkington, near Prestwich, for instance, was held by the local family who bore its name from the Grelleys by the service of one-fourth of a knight. The idea of a "quarter-knight" sounds startling, but, like the "half-ox" of Domesday, it is merely a *façon de parler*. If, for purposes of scutage the service due from a whole knight's fee was fixed in terms of money at twenty shillings, then Pilkington owed five.

The fractional division of the twelve Grelley fees between the county and the rest of the honour is curious. The fractions are differently stated. According to one 13th century survey five and seven-twelfths fees lay within the Lyme and six and five-twelfths without it.[1] Another gives five and a half and six and a half as the respective proportions, and this is probably the earlier division.[2] It is evident that if such a fractional division was original it must have been possible from the first to state knight service in terms of money.

The lands held by this service were reputed to be a barony of which Manchester was the *caput* or head. Now

1. *Testa de Nevill*, vol. ii. fol. 792.
2. *Ibid.*, vol. ii. fol. 850.

from the 13th century onwards a barony not held by a tenant-in-chief of the crown was a very exceptional thing. Even among tenants-in-chief force of circumstances and the defining hand of Edward I. restricted the title of baron to a comparatively small number of the greatest landowners. What made a baron in the sense in which the Grelleys and other great tenants of the honour of Lancaster were barons? It was not the fact that for long periods the honour was in the hands of the Crown by eschaet, and its tenants therefore holding directly of the king. For Magna Carta expressly declared that they (and the tenants of other eschaeted honours) were not to be subjected to the special burdens to which tenants-in-chief were liable. A baronial tenant *in capite*, for instance, paid £100 as his relief. The Grelleys and other barons of the Honour of Lancaster paid at the rate of £5 per knight's fee, the relief of the baron of Manchester amounting consequently to £60. Another and favourite explanation of their baronial status is deduced from the observation that the only other quarters in which such barons occur in the later middle ages are the palatine counties of Chester and Durham. Palatine earls alone, who wielded royal powers and reproduced the royal administration on a small scale, were, we are told, privileged to have barons of their own. If Lancashire had barons it must have been because Roger the Poitevin had been created Earl of Lancaster with palatine powers, in virtue of which he created baronies. But this explanation overlooks the fact that barons who were not tenants-in-chief were common enough in the Norman period and by no means confined to palatine earldoms. The quasi-palatine character of the county of Lancaster, even before 1351, may account for the persistence of the title here as in Chester and Durham, for it was when the

status of baron grew to be uncommon in the kingdom at large that conscious imitation becomes probable. But it will not explain the origin of such baronies. The truth seems to be that in the 11th and early part of the 12th century any considerable military tenant might be called a baron whether he held of the crown or not.[1]

The barony of Manchester included lands in three of the Lancashire hundreds—Salford, Leyland and West Derby, but the vast bulk of them lay in the first of these. With the exception of Barton-on-Irwell and lands in Flixton and Worsley, the estates of the lord of Manchester in the hundred of Salford formed two compact blocks occupying respectively the greater part of the north-western and south-eastern corners of the hundred. In the 14th century the latter comprised the greater part of the parish of Manchester. It also included the parish of Ashton-under-Lyne, which, we have seen, had probably been cut out of Manchester parish at an early date. The whole formed the nucleus or demesne of the barony. It was Manchester in its widest civil extension and the immediate sphere of the jurisdiction of the Court of Manchester. Its boundaries are therefore carefully defined in the 14th century surveys which have fortunately been preserved.[2] This was the original manor of Manchester, but sub-manors had been created within its area, and the residuum was the manor of Manchester in the narrowest sense, that part which its lord had always retained in his own hand. Of the three sub-manors of Ashton-under-Lyne, Heaton Norris and Withington the second eschaeted to the lord before 1282, and Withington, though held of him as a military fief

1. For an examination of the evidence for this statement see *infra* ch. vi.

2. Harland, *Mamecestre*, pp. 276, 372.

by the service of one knight, still owed agricultural service on his land at Manchester.[1]

That portion of the barony which almost filled the north-western corner of the hundred of Salford, comprised an even larger area. It included twenty townships and stretched from Pilkington through Kearsley, Farnworth and the Hultons to Aspull, and northwards through Lostock and Rumworth to Anglezarke, Longworth and Turton. The bulk of it was held of the lord of Manchester by military and socage tenants, but within its bounds was the baron's forest of Horwich or Hopeworth as it was sometimes called. His West Lancashire lands were of less extent. They comprised Parbold, Wrightington, Worthington and Coppull in the hundred of Leyland and Dalton, Childwall, Allerton and Cuerdley in that of West Derby. Except the last-named all these were held of the barony by military service. Cuerdley (near Widnes) was not part of the barony. It belonged to the Widnes fief of the barony of Halton, in Cheshire, held by the Constables of Chester, and had come to the Grelleys, who kept it in demesne, by the marriage of Albert II. to one of the daughters of the Constable William son of Nigel.

The whole of these Lancashire estates (excluding Cuerdley) were held of the honour of Lancaster by the service of five knights and a fraction of a knight. Being scattered over so wide an area they were divided, for convenience of management, into an upper and lower bailliwick. The lower bailliwick comprised the demesne manor of Manchester and the adjoining manor of Barton-on-Irwell (in the parish of Eccles), which in the 13th century had come into the hands of the superior lord. All the rest was in the upper bailliwick. The knights' fees created to provide the military service due

1. *Ibid.*, pp. 134, 136, 377; see *infra*.

from the barony seem to have been originally almost equally divided between the two bailliwicks.[1] In the lower bailliwick were the following:—

	Fees.
Barton-on-Irwell	1½
Withington (including Didsbury, Chorlton-cum-Hardy, Rusholme, etc.)	1
Heaton Norris	¼

In the upper bailliwick were:—

Childwall	1
Parbold and Wrightington	1
Worthington	½
Rumworth and Lostock	⅓
Pilkington	¼

The eschaet of Barton and Heaton Norris left only one considerable military tenant in the lower bailliwick in the 14th century. By that time, however, the whole system was obsolete. With the disappearance of scutage and the tendency to subdivide estates marked by the famous statute *Quia Emptores* most of the remaining knights' fees were shattered into fragments. Westhoughton, for instance, was held in 1320 of the baron of Manchester as $^1/_{40}$ of a fee. But the holders of these fragments had to make certain money payments to their lord and help to compose his court at Manchester. Most of them, too, were bound to entertain the lord's bailiff and his men when this officer paid an official visit to their neighbourhood.

Inquisitions and other public documents sometimes describe the complex of estates enumerated above as "the manor of Manchester, its members and the knight's fees pertaining thereto," but often simply as "the manor of Manchester." A high authority has observed that as early

1. The figures with one exception are taken from an inquisition made in 1242 (*Testa de Nevill*, vol. ii. fol. 791). That for Heaton Norris comes from an inquisition of 1232 (Harland, *Mamecestre*, p. 187). In 1212, however, Heaton was not a military fief, while Clayton was held as half a knight's fee (Farrer, *Lancashire Inquests*, pp. 56-7).

as the 13th century the term *manerium* seems to have been used with no more precision than the term "estate" (as commonly used by laymen) is at the present day.[1] But it is not with the manor in this wide and loose sense that we are here immediately concerned. The manor of Manchester in the narrower and more precise use of the term, the nucleus of the barony, demands a closer examination. Attention has already been drawn to the fact that the original manor, whose civil centre was Manchester, was not coincident with the parish of which it was the ecclesiastical centre, though the bulk of the parish lay within its bounds. Domesday Book suggests that Ashton-under-Lyne, which in 1086 seems to have formed part of the manor of Manchester (*supra*, p. 6), of which it afterwards became a sub-manor, had originally been included in the parish of Manchester, but was formed at an early date into a separate parish. There were, however, a number of townships which, while always included in the parish, never came into the possession of the lay lords of Manchester. Salford and Broughton were reserved by the successive lords of the honour of Lancaster in their own hands. Other townships remained in the possession of the successors of the English thegns, 21 of whom held manors in the hundred of Salford before the Norman Conquest. Chetham, Reddish and Stretford, though ecclesiastically dependent upon Manchester, owed no allegiance to its feudal lords. These must surely have coveted Chetham so close to their town and wedged in between it and their Crumpsall and Blackley lands.

In the coincidence of townships with the estates of Anglo-Saxon thegns we may perhaps find a clue to the origin of the sub-divisions of the parish. The explanation

1. Pollock and Maitland, *Hist. of Engl. Law*, i. 604.

is not exhaustive, however, for a certain number of the thirty townships into which the ancient parish of Manchester is now divided seem to have come into existence at various dates subsequent to the Norman Conquest. In two cases the origin of a township can be traced with some precision, and in one of these cases an upward limit of date can be fixed. It has already been mentioned that the township of Newton with its small detached portion at Kirkmanshulme represents part of the endowment of the parish church.[1] In the case of Burnage, a small township of 660 acres, the materials seem to exist for observing a township in process of formation. As the matter is one of more than local importance, and the facts do not appear to have attracted notice from this point of view, I make no apology for devoting a little space to it here.

Those who have examined the old six-inch ordnance map of the district between Manchester and the Mersey must have been struck by the highly irregular frontier of Burnage township, especially where it adjoins Withington and Didsbury. Fragments of the two latter townships are embodied in Burnage, and *vice versa*, and at one point in the unenclosed fields north of Fog Lane the ancient strips lie alternately in the three townships. Some years ago Mr. H. T. Crofton called attention to this curious state of things in papers read before the Manchester Literary Club [2] and the Manchester Geographical Society.[3] But he overlooked, it seems to me, the explanation suggested by certain passages in the early 14th century extents or surveys of the manors of Manchester and Heaton Norris. From the first of these

1. *Supra*, p. 7.
2. *Manchester Quarterly*, vi. 10.
3. Journal of M. G. S. (1893), ix. 91.

extents we seem to learn that in 1320 Burnage was not yet a distinct township. The manors of Withington (which included Didsbury) and Heaton Norris immediately adjoined each other.[1] The boundary was, or ought to have been, an old road called Saltergate, which no doubt gots its name from the use made of it by those who brought the salt from the Cheshire "wyches" to Manchester and its district. This road had, say the jurors, been removed from its ancient line and was now used over the lord's land of Heaton. The diversion is not easy to trace. The present Burnage Lane with which the Saltergate is usually identified only forms the western boundary of Heaton Norris in the southern half of its course. That boundary turns away from it at its junction with the road to Mauldeth Hall and Heaton Moor and runs considerably to the east of it. The lane here divides the township of Burnage into two not very unequal halves. But as it directly continues the line of Slade Lane, which is the western boundary of Levenshulme, the adjoining township to the north, one is strongly tempted to conjecture that Heaton originally included that part of Burnage which lies east of Burnage Lane. Assuming that the lane does represent the Saltergate, the supposition just made would justify the assertion of the jurors of 1320 that the latter was the boundary between Heaton and Withington, though it throws no light on the nature of the diversion of which they speak. In that case the portion of Burnage township lying to the west of the lane must have been in the manor of Withington. As a matter of fact the moorish district on the border of the two manors which was already called Burnage had until quite recently been mere pasture common to the tenants of both

1. Harland, *Mamecestre*, p. 275.

manors.[1] The men of Withington even had common rights in Heaton Wood, which was perhaps close by.[2] This is rather a late case of that intercommoning of vills which went back to the days when wood and moor between villages was not accurately delimited between them. But "in the 13th century the State seems to have been already enforcing the theory that every inch of land ought to lie within the territory of some vill. This was a police measure. The responsibility of one set of villagers was not to cease until the boundary was reached, where the responsibility of another set began."[3] Perhaps the Saltergate boundary had only been recently drawn. The first encroachments upon the common pasture of the two manors are fortunately dated for us. During the minority of the last Grelley, which ended in 1300, the Longfords, lords of Withington, and the Byrons of Clayton Hall (ancestors of the poet) who were Grelley's chief tenants in Heaton Norris, put their heads together, and without law or leave converted 136 acres of this pasture in Burnage into arable land.[4] The extents make a note of the encroachment, and there was talk of legal proceedings. Of these there does not seem to be any trace, and there is some reason to believe that the matter was settled amicably. There is mention in a Trafford deed of a partition of Burnage between Sir John la Warr, lord of Manchester, and his wife, Joan Grelley, on the one part, and Richard [perhaps an error for Nicholas] de Longford, on the other.[5] When this debatable ground was erected into a new township the rights of the men of Withington and Didsbury in its arable fields would have to be safeguarded,

1. *Ibid.*, pp. 283, 285. It was estimated at 356 acres. The present area of the township of Burnage is 660 acres, but the difference may be accounted for by the use of an acre larger than the statute acre, and the omission of land not suitable for pasture.
2. *Ibid.*
3. Maitland, *Domesday Book and Beyond*, p. 355.
4. Harland, *u. s.* *See* Appendix A. (p. 38).
5. *Ibid.*, p. 271. *See* App. A.

and this no doubt will account for the curious intermixture of the three townships which gives the western side of Burnage so patchwork an appearance on the map.

Nearer Manchester are some townships of clearly late origin. That of Moss Side, which used to have a detached portion embedded in Rusholme at the Longsight end of Victoria Park, contains no traces of a village, and is probably one of the most recent of the Manchester townships. It may have been cut out of Withington, unless it was common ground between that manor and Hulme.

It is tempting to trace the small township of Harpurhey, the area of which is given by the ordnance surveyors as 190 acres to the 80 acres of land held of the manor of Manchester by William Harpour in 1322.[1] What is now the township of Bradford (287 acres) was in the 14th century demesne wood and pasture in which apparently the tenants of the Byrons of Clayton, which adjoined it on the east, had rights of common.[2] Probably this was the case also with the present township of Beswick[3] (for some reason extra-parochial), which contains only 94 acres, and as late as 1801 had only one house and six inhabitants. Blackley was the lord's park.

The vill or township of Manchester would, for this and other reasons, be much more extensive than it is now. Harpurhey, Blackley, Bradford and Beswick doubtless fell within it, and the extents mention eight *hamlets* of Manchester—Ardwick, Openshaw, Gorton, Crumpsall, Moston, Nuthurst, Ancoats and "Gotherswike."[4] Courts,

1. *Ibid.*, p. 263. In 1473 John Hilton, Esquire, of Farnworth, held "one messuage near Manchester called Harperhaye" in socage, paying per annum £1 6s. 8d. (*Ibid.*, p. 483).
2. *Ibid.*, pp. 129, 132, 363, 365, 368. Clayton now forms the western part of the township of Droylsden.
3. It is described in a deed of 1461 as "Bexwyck in the vill of Mamecestre" (Crowther, *Cathedral Church of Manchester*, p. 35).
4. Harland, *op. cit.*, p. 371. "Gotherswike" is unidentified. In 1473 it was held like Harpurhey (*supra*, n. 1) by John Hilton of Farnworth. Possibly it is embedded in the present Harpurhey which is more than twice the size of the estate held by William Harpour in 1320.

called halmotes, were held in the hamlets, the first five of which are now separate townships, but their tenants (except those of Gorton) were bound to grind their corn at the lord's mill in Manchester.[1] We shall not perhaps be going beyond the limits of permissible hypothesis if we assume that these hamlets represented an early growth of population on the outskirts of the original vill or township of Manchester. Gorton had its own mill on the Gore Brook. It is described as a hamlet of Manchester in 1411, but in 1473 appears as a separate vill. Chorlton-on-Medlock was already a separate township held of the baron of Manchester in 1334.[2] Hulme, distinguished from other Hulmes as "near Alport," was apparently a sub-manor in 1320. Clayton, held by the Byrons from the chief lord, was another. Presumably Newton and Kirkmanshulme, which belonged, as we have seen, to the parish church, had been cut out of the original territory of the vill of Manchester. The name of the former betokens an origin more recent than that of Manchester. Some evidence to be discussed below is possibly open to the interpretation that the great sub-manor of Withington, which comprised Didsbury, Rusholme, Chorlton-cum-Hardy, Levenshulme, Denton and Haughton, as well as the present township of Withington, had once formed part of the vill of Manchester.[3]

The whole estate of the Grelleys within the parish could be, it has been seen, described as the manor of Manchester. But there was a narrower use of the term in which it was restricted to that part of their estate here which they had not granted out as sub-manors. The manor in this more limited sense consisted partly of arable land, meadow and

1. Harland, p. 281.
2. *Ibid.*, p. 266.
3. *Infra*, p. 28.

pasture retained in demesne for the lord's own use, partly of land held by freeholders, leaseholders and villeins or customary tenants, partly of common lands in which others than the lord had rights.

According to the extent of the manor taken in 1322 the demesne then contained between 1,100 and 1,200 acres of arable,[1] 4 acres of meadow and 86 acres of pasture.[2] This does not include of course the land held by villeins and (presumably) by the burgesses of Manchester. Only a small proportion of the demesne arable lay close to the town. The bulk of it had been won from the heath which stretched away northwards and eastwards. For the little town was then closely encircled by rough wind-swept moorland, some idea of whose original state may yet be gathered from the open spaces which the builder has hitherto left untouched. These remnants, however, are rapidly disappearing. The extent of moss and waste was still large. Five-sixths of Crumpsall was bog and moor, and the amount of cultivated land in Openshaw was even lower. The latter name speaks for itself, and Moss Bank recalls the ancient state of a great part of Crumpsall. Openshaw Moor included a hundred acres in which the lord of Manchester's tenants of Gorton, Openshaw, Ardwick and Ancoats had a common right to take turf,[3] but the pits were already nearly worked out in 1322. Nearer the town was the waste of Collyhurst, in which the burgesses seem to have had rights of common.[4] A comparison of the extent of 1322 with one made just forty years before suggests that much of the arable area had been taken in from the moor since 1282. This reclaimed

1. The text of the extent printed by Harland (p. 362) reads 120½, but the sum of the items which follow amounts to the figure given above.

2. *Ibid.*, p. 365.

3. *Ibid.*, p. 369.

4. *Ibid.*, p. 525.

land lay chiefly in Crumpsall, Collyhurst and Gorton.[1] The baron did not keep it all in his own hand. Some 300 acres were let on life leases to the Byrons, Pilkingtons and others. These local families did a little surreptitious "approvement," as the reclaiming was called, on their own account. We have seen the Byrons and Longfords enclosing and tilling common ground on the borders of Withington and Heaton Norris.[2] Complaint is also made in 1322 that the Byrons had abstracted 40 acres from Openshaw Moor to the disseisin of the lord.[3]

The ancient arable fields of the vill of Manchester must be looked for between the town and the river. The significant names of Dolefield and Ridgefield still linger in the neighbourhood of Deansgate. Here, too, was the Acresfield in which after harvest the town fair was held, a circumstance which has preserved part of it as an open space. For nearly two centuries its old name has been merged in that of St. Ann's Square. These fields would appear to have been monopolised by the townsmen. Such demesne arable as lay close to the town seems to have formed separate crofts and fields.

The meadow and pasture which are reckoned in the demesne were situated at Alport at the far end of Deansgate, and at Bradford. It is worth noting that pasture at Alport was worth 2d. more per acre than that further away at Bradford.[4] In the former it was valued at 8d. an acre, in the latter at 6d. Meadow was worth four times as much as pasture.

The growth of a town whose burgesses were excused from all service on the lord's demesne had no doubt greatly dislocated the original agricultural organisation

1. *Ibid.*, pp. 363-4.
2. *Supra*, p. 21.
3. Harland, p. 369.
4. *Ibid.*, p. 365.

of Manchester. The lord had servile tenants or villeins, but not in Manchester itself. They were at Ardwick, Gorton and Crumpsall. The extent of 1282 mentions 10 bovates or oxgangs of land held in villeinage (*de bondagio*) in Ardwick, 10 in Crumpsall and 16 in Gorton.[1] Twenty years later $8\frac{3}{4}$, 7 and $16\frac{1}{2}$ oxgangs are enumerated in the three hamlets respectively without any note as to their tenure.[2] The survey of 1320, however, devotes some space to the villeins and their services are described in detail.[3] There were ten villeins in all, six at Gorton (including a widow), three at Crumpsall and one only at Ardwick. With the exception of two, who held respectively two oxgangs and half an oxgang, they each held an oxgang. If the description applied to the first who is mentioned, Henry the Reeve at Gorton ("nativus domini carnis et sanguinis"), was true of the rest, they were all born serfs of the lord. But they were no longer bound to do the regular week-work on the demesne which was originally the chief service exacted from their class. The commutation of such services for money payments had gone some length by the beginning of the 14th century, and they paid what were then substantial money rents ranging from 4s. 5d. up to 13s. 4d. per annum. Their personal services on the demesne were now limited to four days' work in the year at the times of highest pressure of agricultural operations, a day's ploughing with their own ploughs, a day's harrowing, a day's reaping in autumn and a day's carrying corn with their own carts at the same season. These occasional services had always borne something of a voluntary character. They were known as boon-works, and the lord was bound by custom

1. Harland, *op. cit.*, p. 133. The bovate was 15 acres.
2. *Ibid.*, pp. 363-4.
3. *Ibid.*, pp. 279—281.

to provide the boon-workers with a meal.[1] Allowing for the cost of this, each day's ploughing or carrying was estimated to be worth twopence to the lord and each day's reaping or harrowing a penny. The total yearly value of these services, 5s., was a trifle compared with the £3 9s. 8d. which the villeins paid as rent. Another personal service of less regular incidence they shared with the free tenants, who, like them, had to grind their corn at the lord's mills at Manchester or Gorton. When new mill-stones were required they had to convey them from the quarry to the mill, but received an allowance for packing and cartage.[2]

If the villein gave his daughter in marriage "away from his house" or put his son to a free occupation (*ad liberam artem*) he had to pay a fine to the lord. This was a recognition of the lord's right to the services not only of his born serf but of his whole family or *sequela*. The removal of a son or daughter from the tenement diminished its value to the lord, and he insisted on compensation for his loss. On the death of a villein, leaving a son and a widow, the lord claimed a third part of his goods. If he left only a son or a widow the lord took half. In the case of his dying without surviving issue and leaving no widow the whole of his chattels went to the lord. A posthumous son or daughter could only obtain their father's land by a special payment fixed by the lord, and was bound to do carrying service for him as far as Chesterfield.[3] The mention of Chesterfield suggests that this was an arrangement for the conveyance of goods between the baron's Lancashire and Lincolnshire manors.

The servile status of these villeins is thus still sufficiently marked, but owing to their exemption from regular labour

1. Vinogradoff, *Villainage in England*, p. 281.
2. The difference between the 3s. allowed for cartage to Gorton and the 6s. 8d. to Manchester seems too large to be accounted for by the greater distance to be covered. Possibly there is some error in the figures. 4d. was given for packing.
3. So the text reads. But probably this should stand as a separate clause as a service due from all villeins.

services on the demesne, they were in a better position than many of their class on other manors. The fact that in 1320 there were only ten tenants in villeinage in the three hamlets, holding $10\frac{1}{2}$ oxgangs among them, whereas in 1282 more than three times that number of oxgangs were held "in bondagio," seems to call for explanation. A note appended to the section on the villeins probably gives us the clue: "Be it known that Gorton tenants who hold land for terms of years and who used to be less free (*qui minus liberi fuerunt*) shall perform the same customary services of ploughing, harrowing, reaping and carrying corn and millstones as the natives of Gorton and the tenants of Ardwick and Openshaw."[1] The meaning of this appears to be that a number of villein holdings had recently been converted into leaseholds. The new leaseholders (*terminarii*) had still to do boon-works, but had doubtless been freed from the servile fines and the lord's rights over their chattels. In return we must suppose that they paid a higher rent.

Besides the boon-works of his villeins and small leaseholders, the lord of the manor of Manchester retained a customary right to similar services on the demesne from the tenants of ancient arable holdings within the submanor of Withington and its members.[2] Each tenant of one of these old oxgangs, who possessed a plough, had every year to plough half an acre at any point on the demesne that the lord might direct, receiving in return a penny from the lord. In autumn each was required to furnish a reaper, who helped for one day to cut the lord's corn, working until sunset. This being a full day's work they received a meal.[3] One oxgang, held by a member of

1. Harland, *op. cit.*, p. 281; cf. Vinogradoff, *op. cit.*, p. 330.
2. Harland, pp. 134, 377.
3. Ploughing half an acre was only a morning's work (Maitland, *Domesday Book and Beyond*, p. 378).

the Trafford family, instead of furnishing a ploughman or reaper was burdened with the duty of finding a man to act as a reeve or bailiff over these Withington workers, summoning them and superintending their work. In 1282 the Withington oxgangs providing ploughing and reaping service numbered 30, and the ploughing was reckoned as worth 7s. 6d. yearly to the lord, or 6d. an acre, and the reaping 2s. 6d. Twenty years later the oxgangs had fallen to 24 excluding the bailiff's, and no attempt was made to estimate the value of the service, because of the uncertainty about the possession of ploughs by the holders of these bovates.[1] Here, as in the case of the Manchester villein tenements, we seem to see the old agrarian arrangements breaking up.

Labour services due from the tenants of one manor on the demesne of another were very unusual, and it is hard to say why they were reserved on the creation of the manor of Withington and not when that of Heaton Norris was cut out of the original manor of Manchester. With this exception Withington appears to have had an independent manorial organisation. Its lords were for several centuries a family called Longford or Langford, whose manor house was the present Chorlton's farm, which still retains a portion of the old moat. Their chief estates were in Derbyshire, including Longford near Ashbourne, and Hathersage. In 1595 they sold the manor of Withington to Sir Robert Cecil, afterwards first earl of Salisbury, and others. But they were probably only acting for third parties. Five years later, at any rate, the manor belonged to the Mosleys, who had already acquired the chief manor of Manchester.[2]

Barton and Heaton Norris were manors originally in

1. For the text of the passages relating to this service, see Appendix B (p. 40).
2. Nicholas Mosley, citizen and alderman of London, bought it in 1596 for £3,500. He was Lord Mayor of London in 1599, and knighted.

the position of Withington, which before the end of the 13th century had come by sale or eschaet into the hands of the superior lord, the baron of Manchester, and were not regranted as manors. But their profits were always kept distinct from those of the manor of Manchester proper.

In addition to the villeins and leaseholders[1] on Manchester manor in 1320, fourteen freehold tenements are enumerated and four small estates in fee tail.[2] The latter, which reverted to the lord on the failure of the line of descent prescribed in the grant, were the result of the *De Donis Conditionalibus* legislation of Edward I. The descent of the freehold estates was not limited. The tenants of the latter rendered homage and fealty, the holders in fee tail only fealty and perhaps not all that. Both classes paid rent and were bound to grind their corn at Manchester mill. Among the freeholders were Sir Henry de Trafford, who held tenements in Ancoats and most of Chorlton-on-Medlock. He left them to his third son, the founder of the family of Trafford of Garratt Hall, which died out after three centuries. The total of the rents paid by these two classes of free tenants amounted to rather less than £4.

The sporting rights of the manor of Manchester were strictly reserved to its lord. At Blackley, three and a half miles north-east of his Hall, in the rough uplands on the left bank of the Irk, he had an enclosed deer-park, more than seven miles in circuit, with room for 200 deer and two deer-leaps. Cattle were admitted to pasture in its glades on payment of sixpence a head, and iron seems to have been worked to some small extent.[3] The

1. Besides the tenants of old villein tenements for terms of years the Byrons, Pilkingtons, and others had by 1322 received leases for life of large tracts of arable in Gorton, Collyhurst, etc. (Harland, pp. 363-4).

2. *Ibid.* pp. 278, 291.

3. *Ibid.* pp. 368, 445, 474.

baron had a larger and wilder hunting ground, the wood, or, as it is often called, the forest of Horwich, between Bolton and Chorley, in the neighbourhood of Rivington Pike.[1] The forest of Horwich, one of whose valleys bore the significant name of Wildboarsclough, had a circumference of some 16 miles. Its open spaces were let as pasture for cattle. The care of the forest was entrusted to three foresters, who were responsible to the lord for the beasts and birds, and the income derived from the pasture, pannage of swine and honey. They were kept in meat, drink and victuals by the neighbouring villages.[2] When the hawks began to nest the villagers were further bound by custom to go into the forest with the foresters and ascertain on oath the number of nests which the foresters had then to watch night and day until the feast of St. Barnabas (11th June). When the eggs were hatched the villagers had to go again, take the hawk-chickens from the nests and hand them to the foresters. If they failed in any article of these customs they could be cited by the foresters before the lord's court at Manchester.[3]

To keep and hunt the beasts of the forest, that is the various kinds of deer and the wild boar, in impaled park or unenclosed wood, a subject does not appear to have needed a royal grant unless there was a possibility of its interfering with the King's forest.[4] The barons of Manchester claimed to have their deerleaps at Blackley by "the concessions of Kings," but there was no royal forest near and perhaps this may have been only a flourish.

But in the absence of any special grant to an individual the public seem to have had the right of hunting what

1. *Ibid.* pp. 368, 376.

2. This was a charge on 8 oxgangs in Lostock, 14 in Rumworth, 4 in Heaton under Forest, 3 in Halliwell, 4 in Sharples, 2 in Longworth, and 7 in Anderton (*Ibid.* p. 377).

3. *Ibid.*

4. G. J, Turner, *Select Pleas of the Forest* (Selden Soc.), p. cxvi.

were then considered noxious beasts like the fox, and the coney or rabbit, along with pheasants and other fowls in unenclosed lands.[1] To exclude the public it was necessary to get from the crown a grant of "free warren." Such a grant extending over all his demesne lands of Manchester was obtained from Henry III. by the sixth Grelley in 1249.[2]

With this right of warren the extent of 1320 connects the lord's exclusive right of fishing in the Manchester streams, though fishery rights are not mentioned by writers on warren as conveyed therewith.[3] The baron's fishery privileges in the Irwell were reckoned to be worth two shillings a year. He could fish half the river, the other half belonging to the manor of Salford. In the Irk, Medlock and Gorebrook, which gives its name to Gorton, he enjoyed the entire fishing rights which were worth a shilling per annum.

Besides Blackley Park and Horwich Forest there were two small woods close to the town of Manchester, each about a mile in circuit. One was at Bradford on the Medlock, the other at Alport, where the Medlock joins the Irwell. Bradford wood was only one-third as valuable as that of Alport, which extended from the line of the present Quay Street to Knott Mill, and contained oaks and other timber valued at £30. In Bradford wood there was nothing more sporting than bees and pigs, but at Alport eyries of hawks, herons, and even eagles are mentioned. It is difficult to imagine eagles in Deansgate!

The court before which offenders against the customs of the forest of Horwich were haled is described as the court baron of the manor of Manchester, or more shortly the

1. *Ibid.* p. cxxiii.
2. Harland, *op. cit.*, p. 90
3. *Ibid.* p. 282; Turner, *op. cit.*

court of Manchester.[1] It must be carefully distinguished from the court of the borough of Manchester or Portmoot. Like most courts of the kind the baron's court sat every three weeks, and the duty of acting as judges was, by ancient custom, attached to certain manors held of the baron of Manchester. In 1320 there were apparently ten of his tenants who "owed suit," as the legal phrase ran, to the court of Manchester: the military tenants of Withington, Pilkington, Rumworth and Lostock, Harwood and Bradshaw (2 suits), Childwall and Worthington, and the socage tenants of Ashton-under-Lyne, Little Lever and Brindle.[2] By ancient custom they were called Judges (Doomsmen) of the Court of Manchester. It was consequently not a manorial court consisting of the tenants of a single manor but a court of great feudal tenants, who held manors themselves. Individual manors within the barony had their own courts, called halmoots, which were comparatively insignificant. Thus while the baron of Manchester drew an income of five pounds a year from his court baron, the halmoot of Heaton Norris brought him in no more than three-and-fourpence.[3] He might, if he chose, cease to hold the halmoots, but both he and his great tenants were bound to hold the higher court since by grant or prescription it exercised a jurisdiction which, in the ordinary course belonged to the King's court, and the law administered there was "the common law of England." The Court of Manchester enjoyed of ancient right the jurisdiction described by the cabalistic Anglo-Saxon terms: "*Toll, Team, Infangthef* and *Outfangthef*."

1. Harland, *Mamecestre*, pp. 134, 275, 375. 'Curia baronis' has probably no special significance with regard to the lord's dignity. It was the ordinary title of a feudal court at this date whether its lord was a baron or not. But the Manchester court is once called 'curia baronie' (*Ibid*, p. 136)

2. *Ibid.*, pp. 286, 375. In the inquisition of 1282 only six 'suits' are enumerated, viz., from Withington, Pilkington, Rumworth, Childwall, Worthington, and Ashton-under-Lyne (*ib.* pp. 136-7).

3. *Ibid.* pp. 280-7.

Whatever may have been the precise meaning of the first two words there is no question that a court which had *Infangthef* and *Outfangthef* could deal with thieves whether taken in or out of the fief of the lord of the court, and as theft was a capital offence this involved the possession of a pit and gallows. The baron of Manchester claimed jurisdiction, too, and established his claim in 1359, in cases of breach of the peace and of the assize of bread and ale.[1] In order to carry out the assize he was obliged to keep a pillory and a tumbrel or ducking-stool. The pillory stood in the Market Place; the site of the gallows is not certainly identified, though some have thought that it was on or near the spot now occupied by Cross Street Chapel. In view of the comparative rarity in mediæval England of courts with a jurisdiction extending over more than a single manor[2] it is unfortunate that none of the records of the Manchester court in that age have come down to us. But from the decision of 1359, referred to above, it would appear that its criminal jurisdiction, exercised in virtue of the franchises or regalities which we have enumerated, did not extend over the whole barony, but only over the manor of Manchester, and its members, which were defined to be Ashton-under-Lyne, Withington, Heaton Norris, Barton, Haughton, Heaton with Halliwell, Pilkington and their members. This comprises the whole of the solid block of territory held by the baron in the parish of Manchester with Barton and Pilkington close by, though not immediately contiguous, and two townships, Heaton and Halliwell adjoining his forest of Horwich. It is interesting to observe that (if the list is correct) the baron retained this criminal jurisdiction over townships which he had granted out on military

1. *Ibid.* pp. 447-9.
2. Pollock, and Maitland, *Hist. of Eng. Law*, i., 586.

tenure. The jurisdiction of his court over the remainder of the barony must be supposed to have been of a purely civil character, the jurisdiction which any lord was entitled to exercise over his tenants without royal grant or time-honoured prescription. Such jurisdiction, Professor Maitland has pointed out,[1] was not very lucrative, and was hampered and controlled by royal justice. By the 16th century it seems to have died away to nothing. For, in the extant records of the court which date from 1552,[2] we see no signs of any jurisdiction over this part of the barony, though the tenants still did nominal suit to the court. It had, in fact, become little more than a court for the town of Manchester and its hamlets. We may mention here that the name Court Leet, by which its two great annual meetings were known from the 16th century onwards, does not occur in any of the mediæval references to it. The term *leet*, which seems to have had its origin in the eastern counties, was coming into common use about the beginning of the 14th century for those courts held twice a year in which the lord who had "view of frankpledge" exercised the police jurisdiction which normally belonged to the sheriff in his tourn.[3] But the barons of Manchester, who enjoyed franchises more comprehensive and of older date, did not claim their police jurisdiction under this name. In the 16th century, however, when their higher franchises were obsolete and the public work done by seignorial courts had become standardised, they fell in with the general usage, and the official title of their court in its two great annual meetings was "Curia cum visu franciplegii" while the meetings themselves were referred to as leets.

1. *Ibid.* i., 584-5.
2. *Court Leet Records*, ed. Earwaker (1884, etc.).
3. *Hist. of Eng. Law*, i., 580.

To deliver the summonses and carry out the judgments of the court in the district over which its police jurisdiction extended the baron had an officer who bore the name of Grith serjeant, that is, serjeant of the peace.[1] He was also the intermediary between the lord and his remoter tenants and collected his rents. Having to cover so much ground he was assisted by four under-bailiffs. The serjeant himself was provided with a horse and groom, and his underlings who had not that privilege were sometimes called foot-bailiffs. The perquisites of the serjeant must have been considerable, for he received no salary, but, on the contrary, paid to the lord a substantial sum yearly for his office, and in the 13th century the under-bailiffs seem to have done the same. The tenants were not only bound to assist them in executing the orders of the court and in distraining for rent; it was one of the conditions on which they held their land that they should provide them when they came round with meat and drink. This service bore the name of putary serjeant, while their ancient obligation to assist the lord's officer in the execution of the judicial part of his functions was known as "Serjeant's Bode and Witness."[2]

The gross annual income of the Grelleys from the manor of Manchester and its members, with the manor of Cuerdley, in 1282, was estimated to be £131, which would represent nowadays at least £1,700 a year.[3] Towards this total the manor of Manchester contributed over £84, Heaton Norris a little over £4, Barton between £6 and £7, Cuerdley between £11 and £12, and the forest of Horwich £24. Of the three Lancashire livings in the baron's gift two, the great rectories of Manchester and Childwall had

1. Harland, *Mamecestre*, pp. 275, 374.
2. *Ibid.* p. 375; cf. *Lanc. Court Rolls* (Rec. Soc.), pp. viii., sqq.
3. Harland, *op. cit.*, p. 136.

each an annual income equal to that which he drew from his Lancashire estates. That of Ashton-under-Lyne was much less valuable, having an income of £20 a year only.

Four centuries later, in 1665, the manor of Manchester alone was valued at £212. But Heaton Norris showed the biggest rise, the income derived from that manor having multiplied thirty fold. Allowance has, however, to be made for the fall which had taken place in the value of money.

The Wiltshire family of West, to whom the estates of the de la Warrs passed through an heiress in the 15th century, sold the manor of Manchester in 1579 to John Lacy, "citizen and clothworker," of London, for £3,000. Lacy resold it in 1596 at a profit of £500 to his friend Nicholas Mosley, second son of Edward Mosley, of Hough End, in Withington, who three years afterwards was lord mayor of London. Having been knighted by Queen Elizabeth he settled down at Withington and built the present hall at Hough End. His descendant, Sir Oswald Mosley, sold his manorial rights in Manchester to the mayor and corporation, in 1846, for £200,000.[1] This enormous increase in value was due, of course, to the rapid growth of the town, and indeed thirty years earlier Sir Oswald had offered to sell at less than half the price he ultimately obtained. Sir Nicholas had unwittingly invested his modest three thousand five hundred pounds in a gold mine.

1. Harland, *op. cit.*, p. 530.

APPENDIX A (p. 21).

Pastura de Heton Norreis.

Sunt ibidem in bosco domini lxx. acrae pasturae communis pro tenentibus de Heton Norreis et tenentibus de Wythinton cum membris praeter sex septimanas annuatim post festum sancti Michaelis tempore pannagii que non extenduntur ad aliquem annuum valorem quia non possit ad aliquid extendi ultra sufficientem pasturam communariorum. Item sunt in Bronadge ccclvi. acrae pasturae communis per minus C.[1] viz. communis pro omnibus tenentibus predictis unde dominus Johannes Byron et dominus Johannes de Longforde sibi incluserunt C. acras terrae per minus C. tempore quo dominus Thomas Grelle ultimus fuit in custodia domini regis et ipsas acras coluerunt terram arabilem et ipsas tenent tenentes Nicholai de Longeforde et Ricardi de Byron jam per disseisinam predictam.

Et unde idem dominus Johannes de Byron et domina Johanna de Longforde nuper sibi incluserunt xxxvi acras terrae et ipsas coluerunt terrae arabili. Et unde sciendum est quod dominus poterit sibi appropriare cxxxvi acras predictas et includere pro voluntate sua salva sufficiente pastura omnium communariorum predictorum. Que tunc valerent annuatim xxxiiiis. (pro acra iiid.) que non summantur hic ad valorem quantum ad proficuum domini antequam lucrentur per placitum vel aliter.

Survey of Manor of Manchester, 1320.
(Harland, *Mamecestre*, p. 283, cf. p. 368).

1. *Per minus C.* By the short hundred. The long hundred of 120 employed in the Danish districts of England was used in calculating the extent of the waste at Denton in this survey (Harland, p. 291).

Sir John la Warr and his wife, Joan (Grelley), gave to Thomas, son of Henry de Trafford, one hundred acres of moor and pasture in Heaton Norris and Withington, viz., that moiety of the plot called Burnage (Brounegge) nearest to Heaton, which moiety remained to the said Sir John and his wife after a partition of the whole plot between them and Richard de Longeforde.[1]

Chetham Soc. Public. xlii. 173.

1. The document as given by Booker reads dominum *Ricardum* de Longforde, but one is tempted to suspect a misreading. Nicholas de Longford was lord of Withington at the time, and no Richard appears in the family pedigree. The abbreviated forms of the two Christian names in question were very liable to be confused. In July 1340 the royal justices of assize in Lancashire were ordered to respite all assizes of novel disseisin against Nicholas son of John de Longforde, knight who had gone abroad with the king (*Cal. Rot. Claus.* 1341-3, p. 487) but there is no indication of the lands referred to and the assize roll is unfortunately missing.

APPENDIX B (p. 28).

Et est ibidem quoddam feodum de Wythington quod debet per annum quandam aruram xv. acrarum terre que valet per annum viis vid et quedam consuetudo do eodem feodo ad metendum in autumpno pertinens ad xxx bovatas terre que val. per annum iis vid.

Harland, *Mamecestre*, p. 134 (A.D. 1282).

De Consuetudinibus Arrandi: Sciendum est quod quaelibet bovatae terrae arrabilis ex antiquo et non de novo assarto tam Nicholai de Longeford quam tenentium suorum et omnium aliorum in Whithington, Dittesbury, Barlowe, Chollerton, Denton et Haluton arabunt in dominico ubicunque assignati fuerint in Mamcestria dimidiam acram terrae si carucam habuerit possessor ipsius bovatae eo tempore et habebit de Domino id. pro opere—praeter unam bovatam terrae quam Dominus H. de Trafford tenet qui dicitur const. oxgang. Ita quod sunt in universo circa 25 bovatae talis terrae cum ipsa bovata. Et omnes illae bovatae praeter illam Henrici de Trafford praedicti in autumno conjunctim invenient annuatim 26 [36] messores per unum diem ad metenda blada Domini in dominicis praedictis ab ortu solis usque ad occasum ad cibum Domini uni repastui. Et ipsa bovata ab opere exempta inveniet unum hominem praemunientem operarios praedictos veniendi operari et supervidentem ipsorum opera ut bene faciant, quasi [quali in MS.] praepositus.

Quod si contrarium invenerit omnes defectus balivo Domini praesentabit; quae opera non extenduntur ad

annuum valorem [annis valoris in printed text], propter carucarum [carucari in MSS. and printed text] incertitudinem.

Ibid., pp. 377–8.

The corrupt text of the extent of the manor of Manchester in 1322, printed by Harland from a transcript of the seventeenth century antiquary, Dr. Richard Kuerden (Fol. MS. Chetham Library, ff. 276-281), has been here amended partly by the readings of another copy in Harleian MS. 2085 f. 525 b., for some of which I am indebted to Mr. Farrer, and where both present impossible forms by bold conjecture. The grammar of the first clause is queer, but, as there is no doubt about the meaning, I have left it as it stands. The 'Const. Oxgang' may perhaps be the Constable's oxgang (or bovate), that appropriated to the village Constable, and therefore exempt from agricultural services. The lower figure for the number of reapers furnished by the bovates is that given by the Harl. MS., and if not exact, is probably nearer the truth.

Chapter II.

The Town.

In examining the organization of the manor of Manchester I reserved for separate consideration one element which formed no necessary part of the ordinary manor. I refer, of course, to the early growth of a town at the centre of the manor and barony which distorted the manorial system upon which it was grafted yet did not succeed in completely freeing itself from the grasp of manorialism until the middle of the 19th century.

The typical early manor was a purely agricultural local unit, most of the tenants on which were tied to the land and bound to help in the cultivation of the lord's demesne. That Manchester was originally a manor of this type may be taken as certain. But when we get our first clear glimpse of its organisation, in the 13th century, an urban element has already crept in. There is a weekly market and an annual fair; the majority of the inhabitants are exempt from labour services, they hold their tenements on a tenure peculiar to boroughs and under certain conditions they are free to sell them and leave the place. They have a borough court with wider powers than the *hallmoot* of the rural manor. It is not in our power to fix an exact date for the introduction of these urban features, as we can do in the case of Liverpool. The fair was granted by Henry III. but the market seems to have been prescriptive. At least no charter was ever, as far as we know, shown for it. No document, again, has preserved a record of the precise date when the land at the confluence of the Irk and Irwell was cut up into some 150 burgage tenements.

Traces of archaic law among the "customs" of the town suggest a comparatively early date.

There is no strong reason, however, for believing that Manchester belongs to that oldest class of English towns, the problem of whose origin is being so much discussed just now. In all probability she is one of the numerous towns which owe their original privileges to the grant of Norman lords. For it is quite a mistake to suppose that the feudal baron looked askance upon all forms of town life. On the contrary he was keenly alive to the income that could be drawn from a town under his control, as well as to the development of his estates which it facilitated. The profits of markets[1] and fairs, and the increased revenue from the manorial mills and ovens, far more than compensated him for the loss of the townsmen's labour services. The crown, not without an eye to a share of the profit, kept control over the creation of such towns by reserving the right of granting licenses to hold markets and fairs.

Until recently the elucidation of the early history of this group of towns has been rather neglected, overshadowed as they were by the great cities and boroughs chartered by the crown. But Miss Bateson, of Cambridge, has just provided us with a valuable clue by pointing out that in many cases the Norman lord who created a town of this class bestowed upon it the privileges of a Norman town or *bourg*.[2] Within twenty years of the Conquest, as appears from Domesday, a considerable number of such little *bourgs* had been established round the castles and halls of the great Norman feudatories. Tutbury in Staffordshire, Penwortham opposite Preston, and Rhuddlan

1. William Fitz-Alan, in a charter to Oswestry, 1190-1200, undertakes to protect his burgesses there who took messuages from his bailiff *ad emendationem mercati mei*. (*Eng. Hist. Rev.*, xv., 522.)

2. *Ibid.* xv. 73, *et passim*.

in North Wales belonged to this class of towns. A casual remark by the Domesday compiler that the burgesses of Rhuddlan enjoyed the customs of Breteuil,[1] a borough of Normandy, led Miss Bateson to the discovery that no less than twenty other boroughs drew their customs from the same little Norman town. By a misunderstanding of Breteuil's Latin name *Britolium* Bristol had always been regarded as their mother-city. The majority of them, including Shrewsbury and Hereford, were on the Welsh border, which has been described as the "most thoroughly Normanised" part of England, but there is one striking instance in our own county—Preston. The customs of Salford, which served as a model for the Manchester charter, though not derived from Breteuil, show signs of continental influence. The fixed shilling[2] rent for a burgage, and the maximum fine of a shilling in the borough court are instanced by Miss Bateson.

Manchester had some borough characteristics before she received her charter from the last of the Grelleys, in 1301. Possibly there was an earlier unrecorded charter, more probably her privileges were enjoyed without charter at the will of the lord. The founder of the town may well have been one of the earliest Grelleys. Certain it is that in 1282, twenty years before the grant of the charter, the town contained nearly 150 burgage tenements and had its borough court.[3] It had its market every Saturday and an annual three days' fair on the vigil, day and morrow of St. Matthew (September 20—22) granted by Henry III. in 1227.[4] The fair was held on a piece of arable land, adjoining the town, called *Four Acres* or *Acresfield*, of which the open space

1. D. B. i. 269.

2. The Norman shilling of 12d.

3. Harland, *Mamecestre*, pp. 133-4.

4. *Ibid.* p. 48. Robert Grelley purchased a license for a two days' fair as early as 1222, but on the King's coming of age he took out a fresh grant, and the duration of the fair was extended to three days.

of St. Ann's Square is a relic. From fair time to February the fences were removed and the Acres lay open as common pasture "to the great easement of divers poor inhabitants." As late as the beginning of the 18th century corn growing on Acresfield had sometimes to be hastily cut and carried away before the Fair, or the people would have trampled it down. When Lady Ann Bland, in 1708, obtained an Act of Parliament to enclose the Acresfield and build St. Ann's Church, a condition was inserted that the open space in front of the church should be thirty yards wide, so as to accommodate the fair. The cattle fair was removed to the open fields between the town and Alport Park, but the traders in wood, cloth and smallwares still met in the Square. Down to the early part of the 19th century the well-to-do citizens, whose private houses lined the square, had to put up with the annual saturnalia in full view of their windows. Then it was removed to Shudehill and afterwards to Campfield, where it was held until abolished in 1876. An ancient custom obtained of pelting the first animal driven into the fair with acorns and striking it with whips. This has been very conjecturally explained as a survival of an original protest of the inhabitants against the interference with their grazing rights by the establishment of the fair. In 1282 the lord of the manor was drawing an annual revenue, probably equal to £100 nowadays, from the tolls of the market and fair.[1]

The men of Manchester did not rest content with a mere *de facto* enjoyment of burgess privileges, and they were stimulated to seek a grant of them by charter in perpetuity by the fact that their poorer neighbours across the river in Salford had secured a charter early in the 13th century.[2] At last, in 1301, Thomas Grelley was induced to accede to

1. £6. 13s. 4d.
2. For text see below (ch. iii.)

their wish.[1] In its main features Grelley's charter followed that of Salford. The grantor of Salford's charter was the famous Randle or Randolf de Blundeville, the last of the great Palatine earls of Chester, who became one of the figures of popular legend and story:—

> "Ich can rymes of Robyn Hode
> And of Randolf, Erle of Chestre"

wrote William Langland in his "Vision of Piers Plowman."[2] In the troublous days of king John and his son's minority earl Randle had absorbed a large part of South Lancashire with many broad lands throughout the kingdom. His charter to Salford, though undated, can be assigned to a date not long before his death in 1232, for one of its witnesses was a justiciar of Chester, who held that office from 1229 to 1232, and another was no less a person than Simon de Montfort. Now it was not until May, 1230, that young Montfort met the old earl in France and persuaded him to relinquish his own Leicester inheritance. Before that reconciliation he could not have witnessed a charter for the earl.

It seems to have escaped notice that the charter of Manchester is not the earliest or the closest copy of that of Salford. Precedence must be claimed for the charter bestowed upon Stockport by one of its early lords, Robert de Stockport. The Despensers, of whom he held Stockport, themselves held it of the earl of Chester, so that it was natural enough that he should take earl Randle's charter as a model for his own. There were three lords of Stockport in succession called Robert, and this has caused our local historians to assign the Stockport charter to a date which seems much too early. Mr. Earwaker, for

1. Charter printed in Harland, *op. cit.*, pp. 212 sqq., and below (ch. iii.)
2. Ed. Skeat, i. 167, ii. 94.

instance, gives the date 1225.[1] This would make it a precedent for, instead of a copy of, the Salford charter, a conclusion hardly to be reconciled with the internal evidence. A careful examination of the names of the witnesses and other indications renders it probable that Stockport received her charter from the third Robert de Stockport in or shortly after 1260, in which year we know that he received a grant of a weekly market and an annual fair from Edward, eldest son of Henry III., in his capacity as earl of Chester.[2] This would place it, therefore, about thirty years later than the Salford charter, and about forty earlier than that of Manchester.

The form of the three closely related charters is rather peculiar. They take the shape of an exhaustive enumeration of liberties or customs, and are much longer than the crown charters to great cities like London. The reason seems to be that earl Randle and Robert de Stockport were in each case creating a brand new town, and so entered into full detail as to its liberties. Grelley, indeed, was not in this position, and it may be asked why he did not confirm the Salford liberties to his men *en bloc*. The answer is that Manchester custom had diverged in certain points from that of Salford, or he wished it to diverge, and he found it easiest to take the Salford charter and incorporate these divergencies.

The three charters begin by fixing the rent of the *burgage* or burgess holding; each is to pay a shilling a year in lieu of all services; at Salford and Stockport the size of the burgage is defined. Robert de Stockport allowed a perch for the house and an acre in the town field. Grelley omitted this. His burgesses had long been in possession of their burgages, and it was quite unnecessary to define

1. *East Cheshire*, i. 334.
2. See *infra*, ch. iii, p. 112.

their size. That they each included a plot in the town on the frontage of which the house was built and, probably, a share in the common fields we have other means of knowing. The burgess who had no heir could dispose of his burgage by will, and freely pledge it or sell it and leave the town. In the last case he had to pay 4d. to the lord. At Salford and Stockport the heir of a burgess who wished to sell had only a right of pre-emption. At Manchester the heir's consent to a sale of *inherited* land was required, but could be dispensed with if the vendor was in great necessity. This freedom of movement and disposition of property raised the burgess far above the villeins who formed the mass of the population outside the towns, though the burgess must sometimes have been of villein birth. Villeins could not act as witnesses against a burgess.[1] The wife of a burgess shared his advantageous status. She could pay his rent and sue for him in his absence. After his death she was entitled to maintenance in his house with the heir, but if she married again had to leave it without dower. Burgages could be inherited by daughters.

The burgesses enjoyed an exemption from market and fair tolls over a large area; those of Salford in all the demesne lands of the earl of Chester, those of Stockport throughout Cheshire—the toll of salt being excepted in both cases—those of Manchester in the whole fee of their lord. An attempt in the 18th century to exact market tolls from the burgesses was defeated on appeal to this clause. The burgesses of Manchester were provided by the lord with stalls in the market at a nominal charge of 1d., a privilege which was shared with a class of inhabitants who were not burgesses but paid dues to the

1. *Infra*, p. 84.

lord. These *censarii* are met with in Winchester, Preston and other towns. Outsiders had to pay for stalls and were subject to toll. The burgesses of Salford and Stockport had the right to feed their pigs in the wood round the town and to pasture their beasts both in the wood and on the waste. Grelley only allowed his to feed their young pigs in his woods until the season of acorns and beech-mast, when they had to remove them or pay *pannage*.

In the 16th century pigs wandering about the streets, and even into the churchyard, became such a nuisance that a public swineherd was started, who assembled his charges with a horn in the morning and led them out to the lord's waste at Collyhurst. When Sir Nicholas Mosley bought the manor and attempted to enclose and cultivate the waste the burgesses went to law with him, and after some years of litigation his son agreed to a judgment which allowed the enclosure on condition that six acres were reserved for a plague hospital and burial ground and that a sum of £10 should be paid annually for the use of the poor of Manchester.[1] This rent-charge still, I believe, forms part of the Mayor's charities.

Nothing is said in the charter of common of pasture, though we have seen that the burgesses had grazing rights on Acresfield. Nor do the men of Manchester seem to have enjoyed the right possessed by those of Salford and Stockport of taking firewood and building timber from the lord's woods. A comparison of these clauses leaves the impression either that Manchester was more urban than the other two or that her lords were more grudging in their concessions.

There was a clause in the Salford charter which had it not contained a limitation would have made it

1. Harland, *Mamecestre*, p. 525.

impossible for Manchester to become more than a market for agricultural produce. The clause in question forbad anyone to practise the trades of shoemaker, skinner, fuller or the like in the hundred of Salford except in that borough, but reserved the rights of barons.[1] The burgess had duties as well as rights. The rent of his burgage and the weapon he paid as a *relief* on succeeding to it were the lightest of them. More onerous was the obligation to grind his corn and malt at the lord's mill and bake his bread at the lord's oven. The mill soke was probably no more popular than when it afterwards became the chief endowment of the grammar school. Between the reign of Elizabeth and 1758, when an Act of Parliament restricted the privilege to malt, it gave rise to no fewer than sixty suits at law between the school feoffees or the farmers of the mills and the inhabitants. The riots of 1757, which led to the passing of the Act, revived the well-known epigram in which Dr. Byrom thirty years before had voiced the popular feeling against two farmers of the School Mills, Joseph Yates and William Dawson:—

"Bone and skin, two millers thin
Would starve the town, or near it.
But be it known to Skin and Bone,
That Flesh and Blood can't bear it."[2]

Despite the restriction the School in 1825 was drawing £2,250 a year, half its income, from the mills.

Salford had no demesne mill in 1230, and thirty years later Stockport had neither mill nor oven belonging to its superior, but their lords reserved their rights should they remedy the deficiency.[3] The burgesses of the three towns

1. *Infra*, ch. iii.
2. Byrom's *Poems* (Cheth. Soc.), i. 110; ii. 649.
3. *Infra*, ch. iii.

were liable to be tallaged by their lords whenever the King raised a tallage from his free boroughs throughout England.

Each town received permission to annually elect its own chief officer the borough reeve, though the burgesses of Stockport had to consult their lord as to their choice of person. Many clauses of the charters are devoted to the Borough Court. The general English name for this court (which appears in the manorial surveys as *Curia Burgi*) was *Portmanmoot*, but at Manchester, and apparently at Salford, too, this appellation was specially applied to the four regular annual meetings at which, so we learn from another source, every burgess, or his eldest son, or his wife, was required to attend without excuse or summons. For the speedier doing of justice *Lawmoots* could be held in the intervals between these more formal meetings.[1] It was the privilege of a burgess of Manchester not to be sued in any other court save in the case of pleas of the crown or of theft.

If he declined to pay his debts, if, being a baker or a brewer, he did not observe the elaborate sliding scale of weight, quality and price fixed by the law of the land in the Assize of Bread and Ale, if he struck his neighbour to the effusion of blood, it was before the Portmanmoot that the reeve haled him. The maximum fine in most cases was the traditional shilling, which Miss Bateson would trace to French influence, but the Manchester legislator who preserves more archaic custom than his predecessors, put on a special fine of 20s. for wounding on Sunday.[2] The court was presided over by the lord's Steward.[3] This

1. William de Tabley's charter to Knutsford (c. 1292) orders meetings of portmoot every three weeks, 'et quod omnia placita de transgressionibus, attachiamentis, conventionibus fractis placitantur in eadem curia' (Ormerod, *Hist. of Chesh.*, i. 489).

2. *Infra*, ch. iii.

3. *Infra*, ch. iii.

brings us face to face with the difficult question of the legal position of the town. Did the privileges confirmed and extended by the charter of 1301 constitute Manchester a borough, and if not, why not?

When the municipal corporation commissioners, of 1833, drew up a list of 246 corporations "possessing and exercising municipal functions," neither Manchester nor Salford appeared in it. Stockport did. So did the little town of Altrincham and the mere village of Over (near Winsford), once associated in the contemptuous couplet:—

> "The Mayor of Altrincham, and the Mayor of Over,
> The one is a thatcher, the other a dauber."

Manchester and Salford were not ruled out because they had failed to eliminate their manorial lords, for Stockport had a lady of the manor, who nominated the four burgesses from whom the mayor was chosen, and the commissioners found the corporation of Altrincham to be a "mere appendage to the barony of Dunham Massey." Hamo de Massey's charter to Altrincham, in 1290, had been more liberal than Thomas Grelley's, in that it allowed his burgesses to form themselves into an association known as the merchant gild, which gave them a sphere of action in which they were independent of the lord. But the only difference we can detect between Stockport and Manchester is that the former had managed, no one knows how, to substitute a mayor and aldermen for the original borough reeve, and had thus acquired a corporate or quasi-corporate constitution.

But will the tests of a corporate town applied by 19th century commissioners hold good if we go back to the days when the ink was fresh on the charter of Manchester? What constituted a borough in the 14th century? Something at all events that Manchester did not possess. For,

five centuries before the commissioners excluded her from their list, an official decision founded upon the verdict of a local jury declared that Manchester was no borough.

Nearly sixty years after the grant of the charter Roger la Warr, second lord of Manchester of his line, laid a complaint before his superior lord, the duke of Lancaster. His grievance was that the duke's bailiffs had amerced residents of his town and manor of Manchester for breaches of the peace and of the assizes of bread, ale, and meat. This, Roger contended, they had no right to do. He claimed to hold Manchester as a borough and market town in which he and his ancestors from time immemorial had had and used assize of bread and ale and punishment of victuallers for goods sold contrary to the law and custom of the realm, together with toll as well on every day of the week as on market day, and other liberties pertaining to a borough and market town.[1]

The double description of Manchester as a borough *and* a market town seems to show a want of confidence in his power to prove its burghal character. This suspicion is confirmed when he goes on to claim the same judicial franchises as attaching to his *manor* of Manchester and its members. Due provision was made, he pointed out, for the punishment, according to the law of the land, of offenders against the peace and the assizes of bread, ale, and meat. The town and manor had pit and gallows, pillory and tumbrel.

A jury of local knights and esquires, among whom we note Robert de Trafford and Thomas de Strangeways, gave lord la Warr a verdict for the actual franchises claimed. But they also decided that these did not make Manchester a borough. It was only a market town. Their decision agrees with the result of an inquest taken eighteen years

1. Harland, *Mamecestre*, p. 447.

earlier when Parliament imposed a tax which the boroughs were to pay at a rate peculiar to themselves. It was then found that the whole hundred of Salford did not contain a borough. Salford evidently was in the same case as Manchester.[1]

The upshot of our enquiry therefore is that in the 14th century a town might have borough tenure, burgesses and a borough court without ranking strictly as a borough. The apparent contradiction no doubt implies that in an earlier age the term *borough* had been used with greater laxity. But town growth and royal policy had since then drawn a sharp line between boroughs and market towns. The burden of keeping watch and ward fell at least twice as heavily upon the boroughs as upon the market towns.[2] The 13th century legislation on this subject shows that every borough had either a mayor or a portreeve and bailiffs to look after the watch and ward, but in Manchester, as in any rural township, the duty was entrusted to two constables. The burden of parliamentary representation and a higher scale of taxation came to still more clearly mark off the boroughs. They were recognised to be areas cut out of the county, and no feudal magnate, unless he held a palatinate, could create a borough in this sense without the consent of the crown. This consent the lords of Manchester had clearly never obtained. Nor had they shown any disposition to grant that measure of independence which the citizens, even of dependent boroughs like Altrincham, enjoyed. The only constitutional opportunity the burgesses had of acting as a body was in *Portmoot*, and that was presided over by the lord's steward. Moreover, one class of cases with which the Portmoots of Salford and Stockport were empowered to

1. Harland, *op. cit.*, p. 433. Preston paid as a borough. (Smith, *Records of the Parish Church of Preston*, p. 8.)
2. Stat. of Winchester, (Stubbs' *Select Charters*, p. 471).

deal was pointedly withheld from the men of Manchester. Every case of theft had to go before the lord's own court, the Court Baron in which the judges were the great tenants of the barony at large. So that in spite of certain burghal features Manchester, in the middle ages, was organized on somewhat manorial lines.

If its lords had not so often been absentees it might perhaps have attained the position of Wigan or Clitheroe, Macclesfield, or Altrincham. The best that could happen to a small town, however, was to come under the direct lordship of the crown. The king took a broader view of the advantages of increasing the number of the boroughs, quite apart from the immediate temptation of the sums exacted for the royal concessions. Thus it was that Liverpool stole a march upon her rival in the matter of corporate life. It is very probable, indeed, that Manchester was a market town with burgage tenure before King John resolved to create a town round his new castle at Liverpool. In 1207 he divided the site into 168[1] burgages and offered to all who would take them up every liberty and free custom "enjoyed by any free borough by the sea within our realm." More than a century later the baron of Manchester was drawing almost as large a revenue from his burgesses as the king was obtaining from Liverpool. Liverpool had only some twenty-five more burgages, and the tolls from her markets and fairs brought in only a third more than those of Manchester. Yet Liverpool was a highly privileged borough while Manchester had not risen above the humble position of a market town. For a consideration the burgesses of Liverpool had secured a very explicit charter from Henry III. granting them the

1. Cardiff in 31 Edw. I. had 423 (*Cardiff Records*, i. 207), Carmarthen had 181 in 1275 (E. H. R., xv. 216). There were 110 at Frodsham, 180 at Tutbury, Uttoxeter had 127 (Shaw, *Staffordsh.*, i. 44).

privilege of organising themselves in a merchant gild with exclusive trading rights,[1] freedom from toll all over England, and exemption from the jurisdiction of hundred and shire. Their attainment of a corporate character is marked by their farming the revenue which the king drew from the town.

Among our great northern towns Sheffield perhaps offers the closest analogy to Manchester in its history down to the Municipal Corporations Act. She received her charter from Lord Furnival just four years earlier,[2] and though enjoying the privilege of burgage tenure and a measure of self-government, did not succeed in completely getting rid of her manorial character or in becoming a borough in the strict sense. Thus, when the tax on moveables known as the Tenth and Fifteenth was imposed Sheffield, like Manchester, paid with the county at the rate of one-fifteenth, while boroughs were assessed at the higher rate of one-tenth. The assessment became a fixed one, and Sheffield's contribution was £2 5s. 4d., as compared with £3 7s. 0d. paid by Manchester and its hamlets. It is only within the last few years that the Corporation of Sheffield has acquired the market rights of the lord of the manor, the Duke of Norfolk, and for these they had to pay £500,000, or more than twice as much as it cost Manchester to buy up the whole manorial rights of the Mosleys sixty years ago.

But the burgesses of Sheffield, unlike those of Manchester, held common property. At the close of the middle ages they were in possession of lands and tenements yielding an annual income of £27. Some of this had been granted for religious purposes, and at the Reformation most of this property was wrested from the town. The

1. Gross, *Gild Merchant*, ii. 148. In 1382 Rich. II. abolished the Liverpool Guild.
2. J. D. Leader, *Records of the Burgery of Sheffield* (1897), p. 1.

diminished income of seven guineas sufficed, however, for nearly two centuries to defray the ordinary expenses of the town, which in Manchester had to be met by special levies. With the growth of modern Sheffield this modest nest-egg has increased to £3,000 a year, which private munificence has doubled. It is still administered for the good of the community by *Town Trustees* representing the old burgesses, and quite distinct from the modern corporation. The advantages of such a public fund were illustrated in a way which we here can readily appreciate when the Town Trustees, a few years ago, bestowed the handsome gift of £10,000 upon the Firth College.

There is, indeed, one point in which Manchester was at first less manorial, and came nearer to the character of a borough than did Sheffield. Manchester had a borough court, a court of burgesses, but Furnival's charter reserved jurisdiction over the men of Sheffield to his manor-court of free tenants there, meeting every three weeks like the Manchester Court Baron. But Manchester did not permanently maintain this advantage. Its failure to obtain recognition as a real borough arrested the growth of its *Portmoot*. It appears to have been still held towards the close of the 15th century, but by the middle of the next it had been amalgamated with the old Court Baron, and the government of Manchester became even in form as thoroughly manorial as that of Sheffield. There were other reasons for the amalgamation of the Manchester courts. The tie between the lord of Manchester and his greater tenants in various parts of Lancashire had much slackened, and the tri-weekly Court Baron at Manchester ceased to exercise real jurisdiction over these distant tenants. It was often with difficulty that Worthington of Worthington, or Barton of Smithells, or Ashton of Ashton was induced, on succeeding to his estates, to come

to Manchester, and do nominal suit and service. We hear no more of the Grith-Serjeant and his Foot-Bailiffs, and the great baronial court of Manchester was now little more than a court for the *town* of Manchester and its hamlets. At its two full sessions at Easter and Michaelmas, every inhabitant was expected to attend under penalty of a fine for absence graduated according to rank. These two meetings were generally known as the great court leet, and formed the governing body of the town. They were presided over by the lord's steward, a post filled for many years by the Earl of Derby, but the regulations drawn up in them for the government of the growing town were the work of a jury of leading burgesses, whose number varied from 12 to 25. It was their business to see that the provisions of numerous acts of Parliament were duly executed and appropriate penalties for their infraction enforced. Their records, which begin in 1552 and have been printed by the corporation,[1] show that they spent most of their time in an uphill struggle to keep the town sanitary and moral. On one occasion they recorded their opinion that thirty public-houses were amply sufficient for its needs, and among the bye-laws which they found most difficult to enforce was that which prohibited an expenditure of more than 6d. a head at wedding dinners given at inns. At the Michaelmas meeting the town officers were elected, a lengthy list often extending to seventy, from the borough reeve and constables down to the swineherd and beadle for rogues. There were overlookers for different kinds of market produce and for the various streets. All this would be sufficient to show that the old borough court had ceased to have a separate existence even if the Michaelmas

1. Edited by J. P. Earwaker, 1884-1890.

meeting of 1562 had not been formally headed "The Portmouthe." It is curious that there is no mention of these extraordinary sessions or Great Leets in connection with the mediæval court of the lord of Manchester, but it would be dangerous to infer that they were not held, though they must have had much less business to transact when there was a separate borough court. Ordinary sessions of the lord's court continued to be held every three weeks down to the incorporation of the town, and it was in these that its judicial business was mainly dealt with. It was a court for the recovery of debts and damages up to 40s. The Court Leet was much troubled at the unpatriotic conduct of Manchester people who *would* carry their cases to the Salford Hundred Court to the detriment of their lord's court. To make this more attractive they ordered that there should be "two attorneys in the court from time to time to abate matters and causes lawfully betwixte party and party and to have for their pains of every client *not above twopence.*"[1] With this antiquated form of government Manchester, which was described by Defoe as "one of the greatest, if not really the greatest mere village in England," contrived to get along fairly well until the second half of the 18th century. It gave her the substance of self-government and the town had not yet grown to proportions unmanageable under such a system. But the extraordinary leap in her population from 22,000 in 1770 to 70,000 in 1800 compelled changes which marked the close of the old era. The Act of Parliament which in 1791 transferred the real government of the town to police commissioners anticipated some of the benefits of the incorporation which was delayed for another half century.

1. *Records of Manchester Court Leet*, i. p. 74.

Chapter III.

The Three Charters.

The charters granted by their feudal lords to the burgesses of Salford, Stockport and Manchester form, as has been seen, a group by themselves, the Salford charter having been taken as a model for those of her neighbour towns. But in view of the divergencies of the latter from their archetype, which in the Manchester charter are very considerable, and of the difficulties in the way of a comparison of documents which, though often printed, have never been printed together, and whose clauses do not follow the same order throughout, it has been thought desirable to reprint them here with the corresponding clauses arranged in parallel columns.

The most correct of the published transcripts of the Salford charter, the original of which is preserved in the Town Hall of that borough, is the one made by the late J. Eglington Bailey, and inserted in the *Palatine Note Book*.[1] For the purposes of this chapter it has been collated with a photograph of the original. The original of the Stockport charter is unfortunately lost, and we are forced to depend upon an enrolled copy of 16th century date. A photographic facsimile of this copy (part of which is now illegible) is given in Heginbotham's *History*

1. ii. 147 sqq. (1882). For a charter of the Salford type granted to Bolton in 1253 by William de Ferrers see addenda below p. 199.

of Stockport.[1] The transcript printed in the Rev. John Watson's *House of Warren*[2] and reproduced in Ormerod's *History of Cheshire,*[3] contains a few errors which have been here corrected.

Thomas Grelley's original charter to his burgesses of Manchester is now in the keeping of the corporation, but direct reference to it is rendered unnecessary by the facsimile prefixed to Harland's *Mamecestre.*[4] Harland also furnishes a good transcript,[5] but his annotations leave much to be desired.

In the commentary appended to each clause two main objects have been kept in view. Firstly, an attempt is made to illustrate the influence of the French element in the customs of seignorial boroughs of this type which has been so admirably traced out by Miss Bateson. Parallelisms in other charters of the earls of Chester and elsewhere are carefully noted. Secondly, the legal bearing of the clauses relating to borough jurisdiction is elucidated. As these charters are not remarkable for logical arrangement we have ventured to regroup their clauses under certain general heads with sub-sections in the hope of thereby facilitating their study. The position of each clause in the original is indicated by the number attached to it within brackets. In the case of the Salford and Manchester charters the numbers are those given in Bailey and Harland's transcripts. A translation of the Manchester charter will be found at the end of this chapter. It has been designedly made rather free in order to avoid as far as possible purely technical phraseology.

1. 2 vols. (1882-1892).
2. ii. 203 (1782).
3. ed. Helsby, iii. 790.
4. Chetham Soc. Public., vol. liii.
5. *Ibid.*, vol. lvi. pp. 212-217.

Salford Charter c. 1230	Stockport Charter c. 1260 (?)	Manchester Charter 1301.
Ranulfus comes Cestrie et Lincolie omnibus presentibus et futuris presentem cartam inspecturis vel audituris, salutem.	Omnibus presentibus et futuris presentem cartam inspecturis vel audituris dominus Robertus de Stokeport, salutem.	
Sciatis me dedisse concessisse et hac presenti carta mea confirmasse quod villa de Salford sit liber burgus et quod burgenses in illo habitantes habeant et teneant omnes istas libertates subscriptas: (1)	Noveritis me dedisse concessisse et hac presenti carta mea confirmasse quod villa de Stokeport sit liber burgus secundum cartam quam impetravi a domino Cestreshirie. Et quod burgenses in illo habitantes et tenentes habeant et teneant omnes istas libertates subscriptas: (1)	Sciant presentes et futuri quod ego Thomas Grelle dedi et concessi et hac presenti carta mea confirmavi omnibus burgensibus meis Mamecestrie, scilicet:

The brevity of Grelley's enacting clause is noticeable. He was, in great part at least, only confirming existing custom, while it is probable that the earl of Chester and Robert de Stockport were conferring privileges upon the men of Salford and Stockport which they had not previously enjoyed. The absence of any express creation of a "liber burgus" at Manchester does not imply any inferiority of status. The institution of a "free borough" meant no more than the substitution of free burgage tenure and customs for the villein services, and merchet of the rural manor. This becomes clear on a comparison of the alternative phrases employed in some charters. King John grants to his men of Hartlepool "quod sint liberi burgenses;"[1] Randle de Blundeville to his at Coventry "ut in libero burgagio teneant;"[2] Randle's charter to Frodsham and William de Tabley's (c. 1292) to Knutsford bestow "libera burgagia."[3] As the men of

1. Stubbs, *Select Charters*, p. 313.
2. Dormer Harris, *Life in an Old English Town*, p. 46.
3. Ormerod, *History of Cheshire*, ii. 46, i. 488.

Manchester had been "liberi burgenses" long before Grelley confirmed the privileges attaching to this status there was no necessity for him to insert words constituting them such.

I. The Burgage.

1. Size and Rent of the Burgage.

In primo quod quilibet burgensium habeat unam acram ad burgagium suum et reddet de quolibet burgagio suo per annum duodecim denarios pro omnibus firmis que ad burgagium[1] illud pertinent. (2)	In primo quod quilibet burgensis habeat unam perticatam terre ad mansuram' suam et unam acram in campo et reddat pro quolibet burgagio suo per annum duodecim denarios pro omnibus firmis que ad illud burgagium pertinent. (2)	Quod omnes burgenses reddent de quolibet burgagio suo duodecim denarios per annum pro omni servicio. (1)

[1] Burgū in MS.

[1] Mansum in Watson's transcript.

The burgage of uniform size and the shilling rent are features of the new "borough-making" introduced by Norman feudal lords after the Conquest, as indeed the use of the Norman shilling of twelve pence indicates. Miss Bateson has shown that both occur in those customs of the Norman "bourg" of Breteuil, which were bestowed upon so many seignorial boroughs in England, Wales and Ireland. But they are found in a large number of "new boroughs," which cannot be proved to have received the "customs" of Breteuil. This may be due to the use of other Norman borough customs which had these and perhaps other features in common with those of Breteuil, or to the gradual diffusion of certain portions of the Breteuil privileges in combination with others not of the same origin. The list drawn up by Miss Bateson[1] exhibits considerable diversity in the size of the burgage in different boroughs. The amount of appendant arable ("in campo")

1. *Eng. Hist. Rev.*, xv. 306 sqq., xvi. 336.

was in some cases as much as seven or eight acres, but two or three were about the average. The site of the house was sometimes described as a frontage of so many perches or feet, sometimes as a certain area which was frequently, as at Stockport, a perch or rood, sometimes vaguely as a "toft" or "burgage." A building plot of a full acre is not unknown elsewhere than at Salford. Old plans of such towns show that there was usually, if not always, a large garden or "backside" behind the house which fronted the street. At Salford there was no holding in the fields attached to the burgage, at least none is mentioned, but each burgess of Stockport had an acre of arable. As regards the size of the Manchester burgage we have unfortunately no information, but it seems probable from certain indications in the *Court Leet Records* that there was some appendant arable. At Altrincham, Frodsham, Leek, and perhaps Congleton, the burgess, as at Stockport, was allotted one acre in the fields. But at Altrincham, at all events, the area set apart for the house and garden was ten times as large as at Stockport.

The same equality of burgage lots in a single town, and the same diversity in different towns prevailed in the artificial boroughs created in the south of France in the 13th and 14th centuries and known as *bastides*.[1] But here each burgess received a garden plot under the town wall, in addition to his *platea ad construendum domum* and his *arpent* in the fields. Curiously enough, however, this equality of lots does not appear to have been followed in the laying out of the English *bastides* at Hull and Winchelsea.[2]

Among neighbouring boroughs the shilling rent is found at Altrincham,[3] which received its charter from Hamo de

1. A. Curie Seimbres, *Essai sur les Bastides*, p. 168.
2. *Eng. Hist. Rev.*, xvi. 341.
3. Ormerod, *Hist. of Cheshire*, i. 536.

Massey some ten years before the Manchester charter, at Frodsham, at Knutsford, at Uttoxeter, and at Macclesfield and Leek, both boroughs of Randle de Blundeville's founding,[1] and doubtless at Preston, which had the "Law" of Breteuil. Though the inclusive twelvepenny rent is very general in boroughs of this class some variations occur. The burgesses of Oswestry, for instance, paid 12d. for their burgage plot and a further 12d. for three acres of land,[2] those of Congleton 6d. for their burgage and 12d. for each acre of land.[3]

2. Payment of Burgage Rent.

Prefati vero burgenses dadabunt firmam meam de burgagiis ad quatuor anni terminos, scilicet ad Natale Domini, iiid.; ad mediam Quadragesimam, iiid.; ad festum beati Johannis Baptiste, iiid.; et ad festum beati Michaelis, iiid. (24)	Prefati burgenses dabunt firmam suam de burgagiis suis ad festum Omnium Sanctorum. (24)

This provision was omitted in the Manchester charter, probably because the dates of payment were already fixed by custom. In the 15th century some burgesses seem to have paid at the four terms, others twice a year.[4] Elsewhere usage varied. At Knutsford the rent days were the feast of St. John the Baptist (Midsummer Day) and Martinmas, at Altrincham the feast of St. John, the feast of All Saints, and the feast of the Annunciation.

1. *Eng. Hist. Rev.*, xvi, 97.
2. *Ibid.*
3. Ormerod, *op. cit.*, iii. 36.
4. Harland, *Mamecestre*, pp. 487-9.

3. The Burgess's Right to dispose of his Burgage and Chattels.

Quilibet burgensis burgagium suum potest dare, inpignorare vel vendere cuicunque voluerit nisi heres illud emere voluerit; sed heres propinquior erit ad illud emendum salvo servicio meo; ita tamen quod non vendatur in religione. (12)

Quilibet burgensis burgagium suum potest dare, impignorare vel vendere cuicunque voluerit, nisi dominis capitalibus,[1] Judeis vel viris religiosis, sed heres propinquior erit ad illud emendum salvo jure meo. (10)

[1] If the plural is not a misreading (cf. *Hist. Eng. Law*, i. 234) it is forbidden to sell not only to Robert de Stokeport's immediate lord, Hugh le Despenser, but to the Earl of Chester.

Liceat cuilibet terram suam que non est de hereditate vendere vel dare, si necessitas inciderit, cuicunque voluerit nisi heres eam emere voluerit; sed heres debet esse propinquior ad eam emendam. (14)

Quilibet potest vendere de hereditate sua sive maius sive minus sive totum per consensum heredis sui. Et si forsitan heres noluerit, tamen. si necessitas inciderit. licebit ei vendere de hereditate sua de quacunque etate heres fuerit. (15)

Si necessitas inciderit quod aliquis vendat burgagium suum ipse potest de vicino suo aliud burgagium recipere et quilibet burgensis potest tradere burgagium suum vicinis suis per visum comburgensium. (21).

Liceat predictis burgensibus tradere catalla sua propria cuicunque voluerint in feodo predicti Domini libere sine licencia predicti Domini. (22)

Quicunque burgagium suum vendere voluerit extra (ex') religionem et a villa discedere dabit mihi iiiid. et libere ibit quocunque voluerit cum omnibus catallis suis. (26)

Quicunque burgagium suum vendere voluerit et a villa decedere dabit mihi quatuor denarios et libere ibit quocunque voluerit cum omnibus catallis suis. (26)

Si burgensis vendat burgagium suum et velit a villa decedere dabit Domino quatuor denarios et liber ibit ubicunque voluerit. (33)

Burgensis si non habuerit heredem legare poterit burgagium suum et catalla sua, cum moriatur, ubicunque ei placuerit, salvo tamen jure meo scilicet iiiior denariis et salvo servicio ad ipsum burgagium pertinente; ita scilicet quod illud burgagium non alienetur in religione (20)	Burgensis, si non habuerit heredem, legare poterit burgagium suum et catalla sua, si moriatur, ubicunque ei placuerit, salvo tamen jure meo, scilicet quatuor denariis, et salvo servicio ad ipsum burgagium pertinente, ita quod non alienatur in religione vel Judaismo. (20)	Burgensis si non habuerit heredem ipse poterit legare burgagium suum et catalla cum moritur ubicunque sibi placuerit, salvo tamen Domini servicio. (30)

Borough custom tended to obscure the sharp distinction between land and chattels drawn by the common law and to treat the burgage as a *quasi*-chattel. The burgage could be sold like a chattel, and, unlike other land, was devisable by will.[1] It could be made the subject of a gift or given as a pledge, but though many charters (including those of Altrincham, Knutsford, Macclesfield, and Congleton) imposed no other restraints upon its alienation than the customary prohibition of sale or bequest to religious houses or (more rarely) to Jews as at Agardsley (Newborough) in Staffordshire,[2] to the King's servants (*e.g.*, at Altrincham), or to the chief lord (*e.g.*, at Knutsford), or lords of the fief, there were boroughs perhaps more numerous than Professor Maitland supposes[3] where the power of sale continued subject to limitations which the common law had ceased to enforce as early as the 13th century. In these boroughs (Nottingham, Northampton, and Dover are instanced by Professor Maitland), the old rights of the kindred survived in the privilege of pre-emption enjoyed by the heir or, in some cases, by any kinsman. This *retrait lignager* (a name which must not lead us to ascribe to French influence what probably had its origin in early English custom),[4] is found in one

1. Maitland, *Hist. Engl. Law*, i. 296, ii. 330.
2. *Eng. Hist. Rev.*, xvi. 334.
3. *Hist. Engl. Law*, ii. 647.
4. cf. *Eng. Hist. Rev.*, xv. 509.

instance (Northampton) in combination with the *retrait féodal, i.e.*, the right of the lord to pre-emption if there were no kin or they waived their privilege.

The greater particularity of the Manchester charter on the sale of burgages perhaps reflects local custom which was once the law of the land. It retains the distinction between land of inheritance for the alienation of which the heir's consent was very generally necessary as late as the reign of Henry II., and land otherwise acquired (*e.g.*, by purchase) which, being "comparable to chattels," did not require such consent. But the proviso which allowed even inherited land to be sold, if need be, against the wishes of the heir and even while he was still a minor, rendered this in 1301 a distinction without much difference. We are confronted here with a bit of archaic law, of which, significantly, there is no trace in any other Lancashire or Cheshire charter of the same class. As for the price of burgages there is record of a burgage at Warrington sold for £2. Burgages could be divided. There were many half-burgages in Manchester in 1473.[1] But there was no doubt a limit to this process. At Preston no one enjoyed burgess rights whose burgage had not a frontage of twelve feet.[2]

The burgess who sold his burgage and wished to leave the town was at liberty to do so on payment of 4d., one-third of his rent—the *lods et ventes* of French boroughs. Are we to infer that if he remained in the town he was excused this payment? The Preston customs (which included the *retrait lignager)* only excused him if he had another burgage.[3] Clause 21 of the Manchester charter seems to contemplate the case of his renting a burgage from some

1. *Mamecestre*, pp. 487 sqq.
2. *Eng. Hist. Rev.*, xv. 497.
3. *Ibid*, xv. 498, c. 30.

other burgess. It insists that the arrangement shall be made publicly, perhaps in the Portmoot. At Rhuddlan the letting of burgages is said to have been forbidden.[1] Burgages were not only saleable, they could be bequeathed by will. This formed an exception to the general rule of law that land was not subject to testamentary disposition.[2] Limits were, however, placed upon this power of bequest. In the three boroughs with which we are dealing the burgess was not allowed to defeat by will the rights of his heir, and this seems to have been the law of the land.[3] Hamo de Massey, it is true, mentions no such restriction in granting the power to his burgesses of Altrincham, but probably it was understood. The charters of Frodsham, Knutsford, Congleton, and Macclesfield are silent on the right of bequest.

The lords of Salford and Stockport exacted the *lods et ventes* when a burgage was left by will as they did when it was sold, but there is no mention of this in the Manchester clause, unless it is supposed to be covered by the *servicium* reserved.

It is noteworthy that the Manchester legislator omits the prohibition of gifts to the religious and the Jews.[4] His charter was granted after the Mortmain Act had become law and the Jews had been expelled from the realm. Another point deserving attention is the emphasis laid upon the burgess's right to transfer his chattels without the lord's licence and to leave the town if he so wished. His status is here tacitly contrasted with that of the villein on the rural manor. It is curious, however, that the Manchester charter still restricts the burgess's power of disposing of his chattels to the limits of the lord's fief.

1. *Ibid.* xv. 306.
2. *Hist. Eng. Law*, ii. 330.
3. *Ibid.*, ii. 348.
4. For the inferences to be drawn from the inclusion of the Jews in the prohibition at Stockport, and not at Salford, see below, p. 113.

4. The Widow's Rights in the Burgage.

Cum burgensis moriatur sponsa sua manebit in domo cnm herede et ibi habebit necessaria quamdiu sine marito fuerit et ex quo maritari voluerit discedet libere sine dote et heres ut dominus manebit in domo. (21)	Cum burgensis moriatur sponsa sua manebit in domo cum herede et ibi habebit necessaria quamdiu sine marito fuerit et ex quo maritari voluerit decedat libere sine dote et heres ut dominus manebit in domo. (21)	Si aliquis burgensis moriatur sponsa ejus debet manere in domo et ibi habeat necessaria quamdiu voluerit esse sine marito et heres cum illa et ex quo voluerit maritari ipsa decedet et heres ut dominus ibi manebit. (31)

One of the clauses of Magna Carta (67) provided that a widow might remain in her husband's house for forty days (her "quarantine") within which period her dower must be assigned to her. But this limited right only applied to the widows of military tenants. Widows of gavelkind, socage, and burgage tenants, still enjoyed the ancient Germanic right of the widow to "free bench" or maintenance in her late husband's house, a right older than her claim to a separate share of her husband's property in the name of dower. A second marriage, however, naturally put an end to her "free bench," and usually if not always to her enjoyment of her dower.[1]

5. The Burgess's Relief.

Cum burgensis moriatur heres ejus nullum aliud relevium dabit mihi nisi hujusmodi arma, scilicet gladium vel arcum vel lanceam. (22)	Cum burgensis moriatur heres ejus nullum aliud relevium dabit mihi nisi hujusmodi arma, gladium, arcum vel lanceam. (22)	Si burgensis moriatur heres ejus nullum aliud relevium dabit predicto Domino nisi alicujusmodi arma. (32)

Freedom from arbitrary "relief" was a privilege much prized by townsmen. The vague "alicujusmodi arma" of the Manchester clause is defined by the extent of the

1. Pollock and Maitland, *Hist. Eng. Law*, ii. 418-422.

Manor drawn up in 1322[1] to mean the arms used by the deceased burgess during his life. The so-called relief is indeed more strictly a heriot.[2] In the 16th century this was recognised, the heir handing over to the lord his father's dagger "as heriot."[3] The dagger was sometimes valued at a shilling, and in one case sixpence was paid for heriot.[4] But in addition to the heriot a money relief is occasionally mentioned the amount of which seems in some cases to have been fairly heavy.[5] At Birmingham the best weapon—a bill or a poleaxe—or forty pence could be taken.[6] Nothing is said of either heriot or relief in the burgess admissions entered in the Salford Portmoot Records,[7] but as printed they go no further back than 1597.

The early customs of Cardiff and Tewkesbury exempted the burgesses from both heriot and relief.[8]

II. THE BOROUGH REEVE.

Predicti burgenses possunt eligere prepositum de se ipsis quem voluerint et removere in fine anni. (11)	Predicti burgenses possunt eligere prepositum de seipsis quem voluerint et removere in fine anni per consilium domini vel sui ballivi. (9)	Burgenses debent et possunt prepositum eligere de seipsis quem voluerint et prepositum removere. (11) Nullus potest aliquid recipere infra villam nisi per visum prepositi (13)

A clause granting to the burgesses the right of electing a mayor or, more commonly, a reeve (*prepositus* or *prefectus*—terms used interchangeably in the Salford and Manchester charters) occurs frequently in the

1. Harland, *Mamecestre*, p. 376.
2. Cf. *Hist. Eng. Law*, i. 314.
3. Manchester *Court Leet Records*, i. 167, 204, 231. 253.
4. *Ibid.* i. 42.
5. *Ibid.* i. 42, 52, 204.
6. Green, *Town Life in the Fifteenth Century*, i. 201.
7. Chetham Society, New Series, vol. 46.
8. *Cardiff Records*. ed. Matthews, i. 10.

charters of seignorial boroughs. The reeve of a manor was indeed chosen by his fellows, but the lord's steward by whom he had to be accepted doubtless kept a closer control over the appointment than was possible in the case of officers elected by free burgesses. Yet the lord who granted a borough charter usually stipulated for some control over their choice. The express reservation of the "advice" of the lord or his bailiff at Stockport deserves notice, and too much ought not perhaps to be made of the silence of the Salford and Manchester charters. The reeve of Macclesfield's election was subject to "the assent and advice" of the lord or his bailiff,[1] at Altrincham their "counsel" was to be taken.[2] At Knutsford the reeve had to swear to faithfully do his duty to his lord and the burgesses while the burgesses of Congleton were required to present their mayor before the lord's court leet where the bailiff administered to him an oath of fidelity to the lord and the county.[3] But even great royal boroughs like Lincoln and London had to present their choice to the king or his deputy, and the mayor-elect of London had to take an oath of fidelity.[4] At Cardiff the constable of the castle selected two reeves from four chosen by the burgesses.[5] The only recorded instance of the intervention of the lords of Manchester in the election of the borough reeve (the ordinary title of the town officer in the later English records of these Lancashire and Cheshire boroughs) occurred in 1578. Sir William West, the lord of the manor, or rather his steward, chose one person and the court leet jury another, but the latter

1. Ormerod, iii. 740.
2. *Ibid.* i, 536.
3. *Ibid.* i. 489, iii. 36.
4. Stubbs, *Select Charters*, pp. 312-14.
5. *Cardiff Records*, i. 10.

appears to have held the field, though never sworn in.[1] The incident shows the value of the power given to the burgesses (very rare outside these three charters) to remove their reeve. For what the steward attempted to do was not to foist a new candidate upon the burgesses, but to secure the re-election of one John Gee, who had already been borough reeve for two years.[2] At Salford and Stockport there was express provision that the office should be annual, but the omission of the words *in fine anni*[3] in the Manchester clause made prolongation of office possible. Gee, however, was the only recorded borough reeve between 1553 and 1821 who held office two years in succession. Had the burgesses been defeated in 1578 the subsequent usage might have been very different.

The meaning of Clause 13 of the Manchester charter seems to be that the reeve should witness all transferences of property in the town, a function similar to that performed by the "portreeve or other unlying man" of Athelstan's Law or by the sworn official witnesses of bargains in boroughs and hundreds of whom we hear in the laws of King Edgar.[4] The object was "to protect an honest buyer against possible claims by some third person."[5]

III. The Borough Court or Portmoot.

1. Jurisdiction and Composition of the Portmoot.

Si aliquis implacitatus fuerit in burgo de aliquo placito non respondeat nec burgensi nec villano nec alicui alio nisi in suo Portemannemot scilicet de placito quod ad burgum pertinet. (6)	Si aliquis implacitatus fuerit in burgo de aliquo placito non respondeat nec burgensi nec ballivo meo nec alicui alio nisi in Portemanimote scilicet de placitis que ad burgum pertinent. (6)	Si aliquis implacitatus fuerit in burgo de aliquo placito non respondeat nec burgensi nec villano nisi in suo Portemanmot nec etiam vavasori excepto placito quod ad coronam regis pertinet et de latrocinio. (7)

1. *Court Leet Records*, i. 198; Harland, *Mamecestre*, p. 225.
2. *Court Leet Records*, i. 178, 188.
3. The citizens of London were empowered by John's Charter 'ipsum (the mayor) in fine anni amovere *et alium substituere si voluerint, vel eundem retinere*' (Stubbs, *Select Charters*, p. 314).
4. *Ibid.* pp. 66, 72.
5. Pollock and Maitland. *Hist. Eng. Law*, ii. 184, 214.

Si aliquis burgensis vel alius appellat aliquem burgensem de latrocinio prefectus attachiat eum ad respondendum et stare judicio in Portemanmot salvo jure meo. (7)	Si aliquis burgensis vel alius appellat aliquem burgensem de latrocimo prepositus attachiet eum ad respondendum et stare inde judicio in Portemanemote salvo jure meo. (7)	Si aliquis vocat aliquem burgensem de latrocinio prefectus attachiat eum ad respondendum in Curia Domini et stare judicio. (8)
Omnia predicta placita erunt determinata coram ballivis domini Comitis per visum burgensium. (25)	Omnia predicta placita erunt terminata per visum burgensium et mei ballivi. (25)	Omnia placita predicta erunt determinata coram senescallo per rotulacionem clerici predicti Domini. (34)

To secure exemption from being impleaded in courts outside their own boundaries was an aim which the small seignorial boroughs shared with larger towns, though they were not able to obtain as large a measure of judicial autonomy as the most highly privileged boroughs. The creator of a borough had generally power to free his burgesses from defending themselves (except in pleas of the crown) before "foreigners" in the local communal courts or in his own chief feudal court, a court of great tenants little interested in borough affairs and often held at a distance from the borough town. A clause to this effect is therefore common in the charters of such boroughs. Thus Randle de Blundeville himself granted that his burgesses at Frodsham should not have to leave the town for any plea save the "pleas of my sword" as Earl of Chester, the equivalent in the palatinate of the *placita coronae* elsewhere.[1] The same provision without the saving clause—which was no doubt understood—appears in Edward I.'s charter to Macclesfield.[2] Henry de Lacy's Congleton charter[3] provides that the burgesses shall not be impleaded outside their borough in any plea *de terris vel*

1. Ormerod, ii. 46. See Addenda, p. 201.
2. *Ibid.* iii. 740.
3. *Ibid.* iii. 36.

tenementis suis nec de aliquo placito quod sonat in transgressione facta intra limites ville predicte. In other words, they are relieved as far as such cases are concerned from the hardship of attendance in his distant court at Halton Castle, near Runcorn.[1] Hamo de Massey similarly frees the men of Altrincham,[2] from liability to plead "outside their Portmoot"—that is to say, in his court at Dunham (Massey). For the portmoot at Knutsford William de Tabley reserved "all pleas of trespass, attachments, and breach of contract."[3]

The Congleton and Knutsford charters thus help to interpret the *de placito quod ad burgum pertinet* of the Salford and Stockport charters. To the list of pleas they supply there ought perhaps to be added breaches of the assizes of bread and ale.[4] In one important respect Grelley did not see his way to allow his Manchester burgesses as full a cognisance of their own cases as was enjoyed by the men of Salford and Stockport. In the latter boroughs thieves were tried in the borough court, but Grelley, who had a baronial court sitting every three weeks in Manchester, reserved cases of theft in the borough for this higher tribunal here distinguished from the Portmoot as the *Curia Domini.*

The existence of this feudal court no doubt gives us the reason for the proviso peculiar to the Manchester charter that in cases not specially reserved the burgess should be tried in his own court, not only when his accuser was a burgess or villein, but even when he was a *vavassor.* Whatever may be the true meaning of this (in England) rare term,[5] there can hardly be a question that the

1. Head, *Hist. of Congleton*, pp. 36, 61.
2. Ormerod, i. 536.
3. *Ibid.* i. 489.
4. *Mamecestre*, pp. 287, 447, and *infra* p. 89.
5. See *Hist. Eng. Law*, i. 546.

reference here is to the great feudal tenants of the baron of Manchester, who constituted his baronial court. In the absence of any special provision they would no doubt have insisted on drawing disputes between themselves and the burgesses into their own court. The Stockport charter also departs from its prototype in its emphatic mention of the lord's bailiff among those who were not to implead the burgess except in his own court. The lord's bailiff at Salford and Stockport and at Manchester the baron's seneschal (a distinction marking the greater dignity of his fief) presided over the respective Portmoots and in the case of Manchester it was specially provided that the record of the court's proceedings should be kept by the lord's clerk. There is no question here, evidently, of the comparative independence of the Portmoot in a great seignorial borough like Leicester, where the earl's steward only occasionally appeared in the court and rarely interfered with its proceedings.[1]

The use of the phrase *per visum burgensium*, especially in the collocation of the Stockport clause, points to a court in which the suitors were at least nominally the judges.[2] Whether the omission of the words in Grelley's clause has any special significance is not quite clear.

There were four regular meetings a year of the Manchester Portmoot (also called "curia burgi de Mamecestria)[3] which every burgess or his eldest son or wife was bound to attend without excuse or summons.[4] But if necessary to afford speedier justice *(pro jure querentium festinando)* a "Lawmoot" (Laghmote) might be held between each Portmoot.[5] The four fixed meetings are, of course, analogous to the

1. Bateson, *Records of Leicester*, i. xxiv., xxxviii.
2. *Hist. Eng. Law*, i. 594, 658.
3. Harland, *Mamecestre*, p. 134.
4. *Ibid.* pp. 287, 377.
5. *Ibid.*

German *echte* or *ungebotene dinge* and the Lawmoots to the *gebotene dinge.*[1] The distinction can be traced far back in English courts. The three annual meetings of the *burh-gemot* ordered by King Edward were no doubt *echte dinge.* Such were the three meetings a year without summons of the bishop of Winchester's court at Taunton, referred to in an A.-S. charter and of which Domesday Book also makes mention: *ter in anno teneri placita episcopi sine ammonitione.*[2] Three regular meetings were probably more common than four in the class of boroughs to which Manchester belonged. The burgesses of Congleton had to make *tres apparantias annuatim certis diebus* in the lord's court, but when a writ was issued into this court were required to do suit fortnightly.[3] At Preston no burgess, unless he was engaged in a suit, was called upon to attend more than the three great portmotes which were held annually, but if he did not appear "ad quenquam magnum portemotum" he rendered himself liable to a twelvepenny fine.[4]

It is perhaps worth noting that some of the smaller manorial courts known as *halmotes* were held four times a year.[5] On the difficult question of the relation of the portmoots in the small seignorial boroughs to manorial courts the last word has not been said.

2. Procedure.

a. Gage and Pledges.

Si aliquis alium vulneraverit in burgo prepositus debet attachiare eum, si inventus fuerit extra domum suum, per vadium et plegios. (27)

1. Cf. *Eng. Hist. Rev.* xv. 503.
2. Kemble, *Cod. Dipl.*, iv. 233; D. B. i. 87.
3. Ormerod, iii. 36.
4. *Eng. Hist. Rev.*, xv. 497.
5. *Lancashire Court Rolls* (Lanc. and Chesh. Record Soc.), pp. 23-25, 73-77.

The mediæval practice of setting at large persons apprehended for offences which in these days would not be bailable on their giving a personal gage or pledge *(vadium)* to appear in court and obtaining sufficient securities *(plegii)* responsible for their doing so must not be attributed, as Professor Maitland has remarked, to any greater tenderness of the law, but to economy and the reluctance of officials to be responsible for the safe keeping of offenders in the fragile prisons of the times.[1] The immunity of the man guilty of assault if in his own house from attachment by the reeve or chief officer of the borough is not a case of "an Englishman's house being his castle." Comparison with clause 6 of this charter[2] shows that this was a relic of the old "rude justice of revenge." An assault in the street was a breach of the lord's peace and punishable by amercement, but if the assailant took care not to fall fresh from the act into the hands of the lord's officers the affair was left to the parties to settle among themselves. The privilege, however, only applied to assaults which ended without effusion of blood.

b. Essoins.

Si aliquis implacitatus fuerit ante dies Laghmot et tunc venerit oportet eum respondere et non debet se essoniare sine forisfactura. Et si tunc primo implacitatus fuerit tunc habebit primum diem. (19)

Mediæval law allowed a defendant a number of reasonable excuses *(essonia)* for non-appearance in court. The rule here laid down is that, if he did appear after proper notice, he was not to be allowed to further postpone the proceedings without paying the penalty. But no one,

1. *Hist. Eng. Law.* ii. 185, 584.
2. *Infra* p. 86.

though present, is bound to make answer at once to a charge which is brought for the first time into court. Fairness requires that he shall be allowed a delay until the next court day.

c. Default.

Si aliquis implacitatus fuerit de vicino suo vel de aliquo alio de aliquibus que ad burgum pertineant et iii dies secutus fuerit, si testimonium habuerit de preposito et vicinis suis quod adversarius suus deffectus sit ad hos iii dies nullum praeterea det ei responsum de illo placito et alter cadat in misericordiam. (8)	Si aliquis implacitatus fuerit de vicino suo vel de aliquo alio de aliquibus que ad burgum pertineant et iii dies secutus fuerit, si testimonium habuerit de preposito et vicinis suis quod adversarius suus defectus fuerit ad hos iii dies nullum praeterea det ei responsum de illo placito et alter cadat in misericordiam. (8)	Si aliquis implacitatus fuerit de vicino suo vel de aliquo et tres dies secutus fuerit, si testimonium habuerit de preposito et de vicinis suis de Portmanmot quod adversarius suus defectus sit ad hos tres dies nullum postea det responsum ei de placito illo. (9)
		Si aliquis faciat clamorem de aliqua re et non invenerit vadium et plegios et postea velit dimittere clamorem, sine forisfactura erit. (4)
Si aliquis burgensis aliquem burgensem implacitaverit de aliquo debito et ipse cognoverit debitum prepositus ponat ei diem scilicet octavum et si non venerit ad diem reddat mihi duodecim denarios pro forisfactura diei et debitum reddat et preposito quatuor denarios. (4)	Si aliquis burgensis aliquem burgensem implacitaverit de aliquo debito et ipse cognoverit debitum prepositus ponat ei diem scilicet octavum et si non venerit ad diem reddat duodecim denarios pro forisfactura diei et debitum reddat et quatuor denarios preposito. (4)	Si aliquis burgensis aliquem burgensem implacitaverit de aliquo debito et ipse cognoverit debitum prefectus ponat ei diem scilicet octavum et si non venerit ad diem reddat duodecim denarios pro forisfactura diei predicto Domino et reddat debitum et prefecto octo denarios. (3)
Si vero prepositus ville aliquem burgensem calumpniaverit de aliquo placito, et calumpniatus non venerit ad diem nec aliquis pro eo infra Laghemote, in forisfactura mea est de duodecim denariis. (3)	Si vero aliquis prepositus ville aliquem burgensem calumpniaverit de aliquo placito, et calumpniatus non venerit ad diem nec aliquis pro eo infra Le Portemonesmot, in forisfactura mea est de duodecim denariis. (3)	Si prefectus ville aliquem calumpniaverit de aliquo placito et calumpniatus non venerit ad diem nec aliquis pro eo infra Laghmot in forisfactura est de duodecim denariis predicto domino et predictus dominus habeat placitum suum super eum in Portemanmot. (2)

The law's delays of a recognised sort made litigation so slow that it was necessary to impose some limits, and the lord had an interest in doing this because he exacted an amercement from those who overstepped them. If a defendant was ready on three successive court days to meet a charge, but the plaintiff made default, the case fell to the ground and the plaintiff was at the mercy of the lord, *i.e.*, had to pay an amercement. The latter consequence is not expressly stated in the Manchester charter, but seems implied in the further provision (clause 4) that a plaintiff who had not gone so far as to produce gage and pledges that he would prosecute his charge could withdraw without amercement.[1]

A defendant in a plea of debt was given a week's grace by the reeve, and if he did not then appear and satisfy his creditors he was called upon to pay in addition to the debt an amercement to the lord and another to the reeve. Why the Manchester reeve was allowed twice as much as those of Salford and Stockport does not appear. There is a similar clause in the Preston custumal,[2] but nothing is said of any payment to the reeve, and the lord's amercement is eightpence for the first week and a shilling for every subsequent one until the debt is paid.[3] Non-appearance to answer a charge brought by the reeve was also punished by amercement.

The second and third of the main clauses under consideration are of special interest, because they reveal the three boroughs in enjoyment of that low amercement of twelvepence which Miss Bateson has traced to the customs of the Norman *bourg* of Breteuil.

1. Cf. *Court Baron* (Selden Soc.), p. 79.
2. 22, (1), *Eng. Hist. Rev.*. xv. 498.
3. For the procedure when the debt was denied see *infra*, p. 84.

d. Distress.

Burgenses possunt namare debitores suos pro debitis suis in burgo, si debitor cognoverit debitum, nisi sint tenentes de burgo. (13)	Burgenses possunt namare debitores suos pro debito suo in burgo, si debitor cognoverit debitum, nisi sint tenentes de burgo. (11)	Burgenses possunt namare homines sive milites sive sacerdotes sive clericos pro debitis suis si inventi fuerint in burgo. (20)
Catalla burgensium non debent namari pro alicujus debitis nisi pro suis propriis. (14)	Catalla burgensium non debent namari pro aliquibus debitis nisi pro suis propriis. (12)	
		Si burgensis homini villano aliquid comodaverit in burgo, et terminus inde transierit, in burgo sumat namium de villano et per namium suum certificet eum et reddat namium per plegios usque ad terminum octo dierum et tunc reddant plegii sive namium sive denarios. (23)

The right of the creditor to distrain his debtor, that is to take possession of something belonging to him in order to force him to pay his debt, shows traces of that primitive rule of self-help, a survival of another aspect of which—the blood-feud—we have already detected in these charters.[1] But if the creditor carried out the distress himself he was not allowed to do so without the licence of the court and perhaps under the supervision of the borough reeve.[2] The distrainor, too, was obliged to give up the *nám* or things taken in distress if the debtor could offer gage and pledges for payment of the debt—a point brought out by clause 23 of the Manchester charter. At Salford and Stockport burgesses were expressly forbidden to levy a distress on their fellow-townsmen, and in spite of the silence of the corresponding Manchester clause it need not be inferred that the prohibition did not obtain in the latter town. Against a fellow-townsman the

1. *Supra*, p. 78; cf. *Hist. Eng. Law*, ii. 575.
2. But cf. Addenda, p. 202.

burgess had his remedy in the portmoot.[1] The *debitores* of the first set of parallel clauses above are persons from outside the borough, and it is only *si inventi fuerint in burgo* that the distress can be taken. Grelley, it will be observed, is at special pains to make it clear that even knights and priests may be distrained.[2] Loans to the neighbouring villeins (of Crumpsall, Gorton, &c.), by the burgesses of Manchester seem to have been common, if one may judge from the special provision made for distraining them for repayment.

The protection in the Salford and Stockport charters of the burgess's chattels against distraint for any debts but his own[3] refers to cases in which the creditor was an outsider. The communism which caused every member of a community to be treated in other communities as responsible for the debts of any of his fellow-townsmen involved obvious hardships.[4] Of course, Randle de Blundeville and Robert de Stockport could only guarantee their burgesses against these hardships within their own fiefs. The clause is omitted in the Manchester charter because in the interval the practice had been prohibited by statute. A quarter of a century before, the statute of Westminster (1275) had ordained that in no city, borough, town, fair or market, should any Englishmen who did not belong to the town be distrained for any debt for which he was not debtor or pledge. This is embodied in Hugh le Despenser's charter to Cardiff granted in 1340.[5]

1. Clause 3, *supra* p. 79.

2. A charter to Haverfordwest of William Marshal, second Earl of Pembroke, which must have been granted within a few years of that of Salford, allows the burgesses '*capere namia pro debito suo in villa sua de debitore suo vel de plegio vel de homine vel de vicino debitoris illius qui fuerit de tenemento comitatus Penbroc*' (*Eng. Hist. Rev.*, xv. 518).

3. The customs of Cardiff (*Cardiff Records*, i. 11) and Rhuddlan (*Eng. Hist. Rev.*, xv. 306) forbad cattle and other distresses taken within the town to be removed beyond its bounds.

4. Bateson, *Records of Leicester*, ii. 114, 163; *Select Pleas in Manorial Courts* (Selden Soc.), p. 135.

5. *Cardiff Records*, i. 21.

e. Pleading and Proof.

Quilibet potest esse ad placitum pro sponsa sua et familia sua, et sponsa cujuslibet potest firmam suam reddere preposito facienda quod facere debeat et placitum sequi pro sponso suo si ipse forsan alibi fuerit. (19)	Quilibet potest esse ad placitum pro sponsa sua et familia sua, et sponsa cujuslibet potest firmam reddere preposito et facere quod facere debeat, et placitum sequi pro sponso suo si forsan alibi est. (19)	Quilibet debet et potest esse ad placitum pro sponsa sua et familia sua, et sponsa cujuslibet potest firmam suam reddere preposito et placitum sequi pro sponso suo si ipse forsitan aliunde fuerit. (28)

Borough custom seems to have diverged in some respects from the common law in regard to the position of married women. In the boroughs, indeed, as elsewhere the husband could sue and be sued for his wife, but in his absence she could take his place in litigation and pay his rent, while at the four fixed annual meetings of the portmoot her attendance was accepted in lieu of that of her husband or eldest son.[1] The burgesses of Rhuddlan claimed to be represented by their wives in suits tried in their absence.[2] In the king's courts a husband sometimes appointed his wife to be his attorney, but the device was not very consistent with the doctrine of the common law as to their relation.[3] Nor do we ever hear of married women doing suit at the hundred or county court instead of their husbands. Even spinsters and widows who owed such suit performed it by deputy.[4] The mobility of men engaged in trade no doubt accounts for the representation of the husband by the wife allowed in the boroughs.

Single women could not, of course, be burgesses. But many of them were engaged in trade, especially in brewing, and they might be members of the merchant gild where one existed.

1. Harland, *Mamecestre*, p. 287.
2. *Eng. Hist. Rev.*, xv. 306.
3. *Hist. Eng. Law*, ii. 408.
4. *Ibid.* i. 485.

Nullus potest vicinum suum ducere ad sacramentum nisi habeat sectam de aliquo clamore. (12)

Si aliquis villanus burgenses calumpniatus fuerit de aliquo burgenses non debent respondere ei nisi habuerit sectam de burgensibus vel aliis legalibus hominibus. (29)

Si aliquis alii aliquid acomodaverit sine testimonio non respondebit quicquam ei nisi habuerit testimonium; et si testimonium habuerit per sacramentum duorum hominum potest negare. (25)

These three clauses peculiar to the Manchester charter deal with the mode of proof customary in the Portmoot. They affirm in this regard two rules which were part of the general law of the land:—(1) that the plaintiff must produce a "suit" *(secta)* of witnesses before the defendant could be required to wage his law, that is, to disprove the charge by his own oath and those of his compurgators or oath-helpers; the defendant need not answer the "nude parole" of the plaintiff[1]; (2) that villeins, though in the eyes of the law free men in relation to everyone but their lord, were not eligible as witnesses against a full free man, just as they could not serve as compurgators.[2] But though borough law here merely follows the common law, we may perhaps infer from clause 12 and from the absence of any mention of juries throughout the charter that the proof

1. *Hist. of Eng. Law*, ii. 601, 609.
2. *Ibid.* i. 421, ii. 610.

by "verdict of the country," which in the royal courts had displaced the antique defence by compurgation in many fields, had not as yet found its way into the procedure of the Manchester court. Boroughs were particularly conservative in this matter, and even in the royal courts the wager of law—which was an appeal to Heaven only less direct than the ordeal and trial by battle—lingered on into modern times "as a special peculiarity of the two actions of Debt and Detinue."[1] Into the seignorial courts the jury penetrated slowly because their lords "had very little lawful power of compelling free men to serve as jurors." The Preston Custumal (22, §2) contains a clause in practically the same terms as clause 25 above. It adds, however, that if the defendant denied the debt on oath *tercia manu* (that is, with two oath-helpers as at Manchester),[2] the plaintiff should forfeit a shilling to the lord, that if the plaintiff failed to appear the same consequences should follow, but that if unable to appear he might appoint an attorney.[3] As two compurgators were the minimum number the burgesses were let off rather easily. Another passage in the Preston Customs (8) though not very clearly expressed, seems to treat the oath *tercia manu* as the rule in all pleas in that borough, when the plaintiff had witnesses.

But from the last clause of the Customs (48) there appears to have been at least one exception. The slanderer of a married woman was allowed to clear himself by his own oath even if there were witnesses. Miss Bateson is inclined to think that the difficult clause 40, where the sole oath "against witnesses" again appears, should also be brought under the head of slander.

1. *Ibid.* ii. 600, 634.
2. For this inclusive reckoning, see *Hist. Eng. Law*, ii. 601.
3. *Eng. Hist. Rev.*, xv. 498.

3. Assault.

Si aliquis burgensis in burgo aliquem burgensem per iram percusserit vel verberaverit absque sanguinis effusione, per visum burgensium sibi pacem faciet, salvo jure meo scilicet xii. denariorum. (5)

Si aliquis burgensis aliquem burgensem per iram percusserit vel vulneraverit absque sanguinis effusione in burgo, per visum burgensium pacem suam faciet salvo jure meo scilicet xii. denariorum. (5)

Si aliquis burgensis cum aliquo certaverit et per iram eum percusserit sine sanguinis effusione et ad domum suam redire possit sine calumpnia prefecti aut famulorum suorum liber erit de placito prepositi; et si guerram illius cui commisit sustinere poterit bene potest fieri; sin autem per consilium amicorum suorum cum eo pacem faciat et hoc sine forisfactura prefecti. (6)
Si aliquis burgensis in burgo aliquem burgensem vulneraverit in die Dominica vel a nona die Sabbati usque ad diem Lune ipse erit in forisfactura viginti solidorum; et si in die Lune vel in aliis diebus septimane vulneraverit aliquem ipse cadet in forisfactura duodecim denariorum versus predictum Dominum. (5)

The primitive conception of an assault, whether slight or grave, as a matter to be settled between the kindred of the parties by feud or composition had been much modified by the growth of the idea that an assault was a breach of the peace, the peace of the king or of someone who stood in his place. Self-help was discouraged by those who had courts whose fines formed one of their sources of income. And so when burgesses of Salford or Stockport came to blows, even if no blood was spilled, they were not allowed to compose their quarrel out of court, and the lord of the town insisted on having an amercement for the breach of his peace. Manchester custom in this class of cases (cl. 6) was more archaic. Provided that the

offender did not allow himself to be caught by the town officer or his attendants in the act of committing a breach of the peace, or, as the charter expresses it, "could get back to his house without being charged with his offence by the reeve," the settlement of the dispute was left to the parties in the ancient fashion.[1] A mild kind of feud was permitted. If the assailant was willing to take his chance of being paid out in his own coin, well and good. But if not he might come to an amicable arrangement with his adversary with the consent of his own relatives *(amicorum suorum)*—a relic of the participation of the kindred in the blood-feud—and the lord would demand no fine. References to foreign boroughs in which reconciliations could be effected in this way without coming into court are given by Miss Bateson in a note on the Preston custumal.[2] At Preston itself more serious disputes were settled by agreement between the parties and their friends on payment of the doctor's bill and of archaic money compositions for the wounds varying according to their size and position.[3] This could apparently be done out of court; at least there is no mention of any amercement. If this was so the customs of Breteuil, which had been bestowed upon the town, had been departed from in this instance for (like the Salford and Stockport clauses) they distinctly provided for a fine even in the case where no blood was shed.[4]

The Manchester scale of fines for wounding (5) embodies old English custom tempered by French influence. The heavy amercement of twenty shillings for wounding between noon on Saturday and Monday is exactly what

1. For the procedure when the assailant was caught outside his house see clause 27 (*supra* p. 77).

2. *Eng. Hist. Rev.*, xv. 507.

3. *Ibid.* pp. 498, 505.

4. *Ibid.* xv. 755.

the citizens of Chester, in the days before the Norman Conquest, had to pay for bloodshed between those limits.[1] The Manchester rule may have been copied from Chester but did not follow her in inflicting the same fine for wounding on the great festivals. Where they most strikingly diverge, however, is in the fine exacted for bloodshed committed on any other day of the week than those above mentioned. At Chester, under Edward the Confessor, this was ten shillings—half the fine on holy days,—while Manchester folk got off on payment of a shilling.[2] This immense reduction brings out very clearly the great boon that the Norman founders of boroughs conferred when, as Miss Bateson has so admirably demonstrated, they introduced this low amercement from Breteuil and probably from other Norman *bourgs* into their new foundations.[3] One would have expected, however, a corresponding reduction of the fine for Sunday bloodshed. The heavy twelve shilling amercement for non-payment of toll[4] hardly comes into the same category as the Sunday fine, for it was exacted from strangers not from burgesses. Yet in the Preston Custumal it is mentioned as an exception to the normal 12d. amercement.[5]

In a number of boroughs the shilling fine was only a preliminary amercement which admitted the accused to plead in the lord's court. After judgment another fine

1. *Domesday Book*, i. 262.

2. Randle de Blundeville, it is interesting to note, incorporated the Chester practice of a heavier fine for Sundays in his charter to Frodsham, along with the shilling fine for weekdays (Ormerod, *Hist. of Cheshire*, ii. 46). The amount of the Sunday fine '60s et obulus aureus,' has a traditional ring.

3. *Eng. Hist. Rev.*, xvi. 92. Fixed moderate amercements were not unknown, however, before the Conquest. It was, for instance, a special privilege of the saltworks at Nantwich that no more than two shillings should be taken as a fine for any offence committed within its bounds, save murder and theft, which were to be punished with death, as in the rest of the county. It may not therefore be a merely accidental coincidence that a judge (*judex*) of a Hundred Court, or of the County Court, who fell into mercy in the Court of the Earl of Chester, was, by Randle de Blundeville's charter to his barons, quit on payment of two shillings (Ormerod, i. 53). A suitor (*sectarius*) in the same case paid a shilling.

4. *Infra*, p. 92.

5. Clause 9. (*Eng. Hist Rev.*. xv. 497.)

was imposed upon him, the object of which is stated in some charters to have been the recovery of his right to plead—lost by his condemnation.[1] This second fine generally took the form of a "reasonable amercement according to the amount of the offence." In the Cheshire group of boroughs the double amercement is found at Congleton, Macclesfield and Knutsford, the shilling amercement alone at Frodsham and the amercement in proportion to the offence alone at Altrincham. Leek, a foundation of Randle de Blundeville, seems to have had the shilling fine only—in this agreeing with his charters to Frodsham and Salford.

4. Assize of Bread and Ale.

Quicunque fregerit assisam sive de pane sive de cervisia remanebit in forisfactura de duodecim denariis tribus vicibus et ad quartam vicem faciet assisam ville. (16)	Quicunque fregerit assisam ville sive de pane sive de cervisia remanebit in forisfactura mea de duodecim denariis tribns vicibus sed ad quartam in forisfactura servare assisam ville. (16)	Qui fregit assisam sive de pane sive de cervisia ipse erit in forisfactura duodecim denariorum ad opus Domini. (26)

One of the commonest franchises claimed by feudal lords was the right of enforcing the statutory regulations determining the prices at which beer might be sold.[2] Less common was the privilege of carrying out the assize of bread, which fixed the price of the loaf, or rather its weight, according to a sliding scale regulated by the price of grain.[3] The barons of Manchester claimed both by prescription.[4] The law of the land limited the extent to which offences against these assizes were punishable by fine. The fraudulent baker, for instance, provided the loaf was under a certain weight, was let off with a fine for

1. *Ibid.*, xvi. 109.
2. *Hist. Eng. Law*, i. 581; *Court Baron* (Seld. Soc.), p. 25.
3. *Ibid.* p. 23.
4. Harland, *Mamecestre*, p. 447.

three successive offences, but on the fourth he was sent to the pillory (or, if a woman, to the tumbrel[1]), without the option of a fine. When the loaf was over two shillings weight, fines could not be inflicted, even for a first offence. Brewers—who were generally women—went to the tumbrel for the fourth offence.

Every lord, therefore, who wished to exercise these franchises was bound to provide a pillory and tumbrel. Fines being more profitable, however, evasions of the law sometimes occurred. In 1329, for example, John la Warre, lord of the manor of Manchester, was found to have no pillory in his manor of Wakerley, in Northamptonshire, and to have been taking fines where the pillory should have been inflicted, whereupon his franchise was sequestrated by the crown.[2] Manorial lords who had assize of bread and ale do not seem to have been precluded from limiting the amount of the fine where a fine was the statutory punishment. The statute prescribed an amercement proportionate to the amount of the offence. But the privilege of the fixed shilling fine was often, as in the three boroughs extended to this class of cases. The practice at Preston was the same, except that even for a fourth offence the burgess could escape the cuckstool on payment of "the best fine he was able."[3] This may have been based on custom older than the statutory regulation. The "assisa ville" of the Salford and Stockport charters no doubt refers to the pillory and tumbrel. The silence of the Manchester charter as to any punishmnt but a fine must probably not be interpreted strictly. The town certainly had the requisite instruments of punishment.

1. The tumbrel or cart was fitted with the cucking stool, in which the offender was publicly ducked in some unsavoury pool. At Preston male offenders were sent to the cucking stool.

2. Harland, *Mamecestre*, p. 435.

3. *Eng. Hist. Rev.*, xv. 499, 509.

From a comparison of the Salford provision on this subject with the penalty clauses of the *Assisa Panis et Cervisie* and the *Judicium Pillorie* printed in the older editions of the statutes under 51 Henry III. (1266–7), but entered in the "Statutes of the Realm"[1] as of uncertain date, it would appear that in the matter of punishment, at all events, these only incorporate what was already in force by 1230. An early assize of bread ascribed to the reign of Henry II. has been printed by Mr. Cunningham,[2] but does not touch upon penalties.

IV. Trade.

1. Trade banned to the Borough.

Nullus infra Wapontak Salford ut sutor, pelliparius, fullo vel aliquis talis exerceat officium suum nisi sit in burgo, salvis libertatibus baronum (baron'). (23)	Nullus infra terram meam de Stokeport ut sutor, pelliparius, fullo vel aliquis talis exerceat officium suum nisi sit in burgo. (23)

This and similar clauses in other town charters were dictated partly no doubt by the burgesses' jealousy of competition and the lord's fear lest the value of his borough should be diminished, but partly also by the feeling, that trade for safety and proper supervision needed to be concentrated at fixed points, which had found expression long before in Athelstan's ordinance "that no man buy any property out of port (or borough) over xx pence."[3]

The following parallel passages may be adduced. Among the privileges said to have been enjoyed by the burghers of Newcastle-upon-Tyne in the reign of Henry I., was the exclusive right to sell, make, or cut cloth for

1. i. 200-1.
2. *English Industry and Commerce*, ed. 3, i. 568.
3. Stubbs, *Select Charters*, p. 66.

dyeing.[1] No one was allowed to work dyed cloths within ten leagues of Nottingham save in the borough.[2] In his charter to Cardiff (1340) Hugh le Despenser granted to his burgesses there that "all merchants as well clothiers, cobblers, skinners and glovers, as others who live by buying and selling" within his lordship of Glamorgan and Morgan should live in the boroughs and not "upland."[3] He added that no merchandise must change hands save in fairs, markets and borough towns, and that traders must travel with their goods by the King's highways through these boroughs.

As Manchester was in the Wapentake of Salford the terms of this clause would have made it impossible for any shoemaker, skinner, fuller or similar trader to reside in the former town, but for the proviso saving the rights of the barons. Manchester had a fulling mill as early as 1282.[4]

2. Burgesses' Freedom from Toll.

Burgenses predicti et omnes sui de quocunque emerint vel venderint, ubicunque fuerint in dominicis meis, sive in nundinis sive in foris, erunt quieti de tolneto, salvo tolneto salis. (15)	Predicti burgenses de quocunque emerint vel venderint, ubicunque fuerint in comitatu Cestrie, sive in nundinis sive in foris, erunt quieti de tolneto, salvo in les Wyches[1] de tolneto salis. (13)	Burgensis de quocunque emerit vel venumdaverit in feodo predicti Domini liber erit a tolneto. Et si aliquis de alia schiria venerit qui debeat consuetudinem reddere si cum tolneto decesserit et retentus [? fuerit] a prefecto vel ab alio ejus forisfactura erit duodecim solidi ad opus Domini et reddat tolnetum suum. (24)

[1] Watson's reading. The old copy has "le Wycis."

Exemption from some or all of the many burdensome imposts levied upon merchandise on the coasts and in

1. *Ibid.* p. 112.
2. *Ibid.* p. 167.
3. *Cardiff Records*, i. 21.
4. Harland, *Mamecestre*, p. 133.

markets and fairs, with those raised for bridge-building and wall-repairing was one of the most highly-prized privileges of mediæval boroughs large and small. Only the king, however, could grant release from all such dues throughout England—a privilege already extended to London by Henry I.—or England and Normandy or—as in John's charter to York—England, Normandy, Aquitaine, Anjou, and Poitou "per terram, per aquam, per ripam maris, *by land and strand.*"[1] A longer or shorter list of these *consuetudines* was usually given, and in some cases the chief officer of the borough received express authority to distrain upon those who took toll of the burgesses in defiance of their chartered right.

Seignorial boroughs had to be content with less extensive exemptions, though an arrangement with his superior lord or the king sometimes enabled the grantor of a charter to free his burgesses from dues beyond the limits of his own fief. Some such arrangement must have preceded Robert de Stockport's grant to the burgesses of Stockport of freedom from toll throughout Cheshire, and it may very well have formed part of the charter from the lord of Cheshire to which he alludes in the first clause of his own. Henry de Lacy conferred the same privilege on his men at Congleton, doubtless by permission of Edward I., then "lord of Cheshire," but contrary to the usual practice he reserved the right to take toll of them in his own lands.[2] Frodsham and Macclesfield, both of which received their charters from the Earl of Chester, were freed (with one exception) from all toll within the county. In the case of Salford, however, Randle de Blundeville appears to have limited his concession to his own demesne lands. Thomas Grelley

1. Stubbs, *Select Charters*, pp. 108, 167, 313.
2. Ormerod, iii. 36.

at Manchester, like Hamo de Massey at Altrincham, was only able to relieve his burgesses from toll in his own lands, but the Manchester fief was much more extensive than that of Dunham.[1] The reservation of the salt toll in those two of our charters which conferred exemption from tolls in Cheshire appears also in the charters of Frodsham and Macclesfield *(excepto sale in Wycis)*. The tolls levied on the produce of the brine-springs at the three Cheshire Wiches—Nantwich, Middlewich, and Northwich—was a very ancient and no doubt extremely profitable source of income to the earls of Chester. Domesday Book records, along with other interesting customs of the Wiches, the tolls charged at Middlewich and Northwich before the Conquest.[2] At the latter place the men of the hundred in which it lay paid from a halfpenny on a horseload to twopence on a cart drawn by two or more oxen, but for strangers from other hundreds these dues were doubled. The extent and antiquity of this traffic from the neighbouring counties is attested by the ancient roads which bear, or bore, the name of Saltergate and sometimes formed the boundary between townships. A Saltergate, now represented by Burnage Lane, originally divided Heaton Norris from Withington and Thornely Lane which forms part of the boundary between Reddish and Denton was once called Saltersgate.[3]

Similar exceptions of some lucrative toll occur elsewhere. The exemption from tolls throughout Gloucestershire, for instance, which the burgesses of Cardiff obtained from their lords the earls of Gloucester, in the 12th century, did not extend to raw hides and woolfells.[4]

1. Immunity from toll throughout the lord's fief was one of the customs of the Norman *bourg* of Verneuil, and therefore probably among those of Breteuil (*Eng. Hist. Rev.*, xv. 757.)

2. D.B. i. 268 ; Ormerod, *Hist. of Chesh.*, i. lxxi., iii. 157, 178.

3. Harland, *Mamecestre*, pp. 275, 277.

4. *Cardiff Records*, i. 11.

But if the burghers went toll-free, or nearly so, the lord looked sharply enough after his rights on goods brought in by others. The heavy fine of twelve shillings exacted from the stranger who left Manchester without paying the toll due from him throws much light, too, on the value to the burgesses of the privilege of a low fixed amercement.[1] At Preston, where the fine *de tolneo asportato* was the same as at Manchester, it is only mentioned in the Custumal (cl. 9) as an exception to the twelvepenny amercement.[2] Delay in the payment of toll without fraudulent intent was punished by the lighter fine of elevenpence (cl. 28).

3. Market Stalls.

Prepositus debet tradere cuilibet burgensi et tensariis' seudas suas in foro et prepositus debet inde recipere unum denarium ad opus predicti Domini. (16)

[1] "Tensarius" or "tenser" frequently appears in borough records instead of the commoner "Censarius" or "censer." Dr. Gross suggests that the former may be only a misreading for the latter (*Gild. Merch.*, i. 50). But the initial letter here is an unmistakeable 't.' Cf. Ducange, *Gloss.* s. v. *tensa*.

Si burgensis vel tensarius voluerit stare in seudis mercatorum ipse debet pacare predicto Domino quantumcunque extraneus et si stet in propria seuda tunc nil daturus est predicto Domino. (17)

1. Mr. Harland, in his translation of the Manchester clause (*Mamecestre*, ii. 230), strangely states the amount of the fine as twelvepence, although he has *duodecim solidi* in his Latin text. The use of *schiria* in this clause reminds us that the term was once applied to other local divisions than counties, as indeed in a few cases (cf. Hallamshire) it still is. In Cheshire it served as a synonym for hundred (Ormerod. iii. 157, 173), and the Lancashire hundreds were commonly called Salfordshire, Blackburnshire, and so on.

2. *Eng. Hist. Rev.*, xv. 497.

The *seudae*—a form softened from the more usual *seldae* under French influence[1]—were here, obviously, stalls in the market-place for the use of which a merely nominal charge was made, in the shape of an entrance fee, except to strange "merchants" coming to the market. The *seudae mercatorum* may be compared with the double "row of sheds or shops" (*rangea seldarum*—schopa and selda are used interchangeably) which were assigned to the merchants of Leicester at Stamford and Boston during the fairs, and the payment for which or *seldagium* was met partly by a small charge on the merchants' cloth and wool, partly by the Merchant gild, of which they were members.[2]

The object of the second of the two clauses above seems to have been to prevent those who had stalls of their own from appropriating further free space in those provided by the lord for "foreigners." These booths, stalls or shops were probably of no very substantial construction, and some of them *apertae seldae* like those mentioned in certain Welsh charters.[3] In the flower-stalls which down to a very recent date obstructed the old Market Place of Manchester, we may perhaps see a relic of the *seudae* of which the charter speaks.

The first clause calls attention to the existence in mediæval Manchester of a class of inhabitants, engaged in trade and enjoying some privileges, who were not burgesses. These *tensarii* or *censarii* are met with in a number of other towns "especially those of Wales and the west of England," and both names indicate that they made a (doubtless annual) payment for the right to trade along

1. Cf. Bateson, *Records of Leicester*, i. 122.

2. *Ibid.* i. 74, 78-80, 95.

3. *Cardiff Records*, i. 21.

with the burgage-holders.[1] The *censarii*, of Winchester, are described in a document of Edward I.'s time as "residents who are not of the liberty." They paid £2. 4s. 2d. from May to September, 1275.[2] Down to 1650 traders not free of the city were arbitrarily assessed annually but in that year it was ordained that no such person should be assessed at any one time more than five pounds. In some boroughs these *censarii* were called "stallagers" *(stallati)* or "stallengers,"[3] as at Leicester, where they were not members of the Merchant Gild,[4] in the Scottish "Four Boroughs," whose laws prohibited them from going shares with burgesses except at fairs,[5] and at Preston, where they enjoyed certain rights of pasture which were restricted by the Gild of 1582, while at the next Gild, when they numbered 248 out of some 1,400 names on the roll, they were prohibited from making malt in the town.[6] For certain offences Preston burgesses, by an ordinance of the former Gild were to be "disfranchised of their ffredome, and so to stand and be as stallingers only." By that date the name had come to cover non-burgess inhabitants who had no stalls: one of them was a musician.

The charters of Cardiff and other Welsh boroughs forbad any but persons "scotting and lotting" with the burgesses and members of the Merchant Gild to keep an open shop *(seldam apertam)* or tavern or practise any retail trade *(Corf facere)* in the town.[7]

1. Gross, *Gild Merchant*, i. 49.

2. *Ibid.* ii. 264.

3. Richard de Grenville's charter to Bideford speaks of 'censary or stallage' (*Eng. Hist. Rev.*, xv. 310).

4. Bateson, *op. cit.*, i. xxxiii.

5. *Eng. Hist. Rev.*, xv. 509.

6. *Owens College Historical Essays*, p. 238.

7. *Cardiff Records*, i. 21; Gross, *op. cit.*, ii. 132, 176.

V. SUIT TO THE LORD'S MILL AND OVEN.

Nullus burgensis debet furniare panem qui sit ad vendendum nisi ad furnum meum per rationabiles consuetudines. (9)	Si predicti burgenses voluerint furniare panem ad vendendum debent furniare ad fornacem meam si habeam fornacem in villa de Stokeport et si non habeam furniant ubicunque voluerint. (15)	Burgenses predicti sequentur molendinum Domini predicti et ejus furnum, reddendo consuetudines predicti molendini et predicti furni ut debent et solent. (10)
Si molendinum ibi habuero ipsi burgenses ad molendinum meum molent ad vicesimum vas; et si molendinum non habuero ibidem molent quocunque voluerint. (10)	Predicti burgenses debent molere omnia blada sua crescentia super terram suam infra metas de Stokeport vel blada moram facientia in villa de Stokeport ad molendinum vel molendina mea ad sextum decimum vas, si habeam molendinum vel molendina infra divisas de Stokeport. (14)	

The feudal lord of a borough was generally reluctant to surrender the profitable "soke" or "suit" by which his tenants were bound to grind their corn at his mill, paying therefor a certain proportion of the grain, and to bake their bread at his oven, payment for which was also sometimes taken in kind. Even so important a town as Leicester could not obtain immunity from these burdensome seignorial rights. The utmost concession that Simon de Montfort would make to his burgesses was that when his Leicester mills were too busy to grind their corn without delay they should be at liberty to take it elsewhere to be ground.[1] This limit on the lord's right, too, was no more than was enjoyed by some small boroughs like Congleton, and even by rural manors, *e.g.*, by the tenants of Ramsey Abbey during the months of August and September.[2] Most, if not all, burgesses of Leicester again were forced to bake their bread in the earl's oven.[3]

1. Bateson, *Records of Leicester*, i. 39.
2. *Cart. Rams.*, i. 473, quoted in *Hist. Eng. Law*, i. 368.
3. Bateson, i. 10.

Yet, thanks to the greater liberality of their lords, some boroughs of inferior importance obtained exemption from one or both of these "suits." From a very early date the citizens of Cardiff were released from the necessity of grinding at the lord's mill and allowed to have horse or hand mills of their own without licence or payment; they were equally free to bake and brew and to erect kilns and dovecotes—which were usually seignorial.[1] The customs of Breteuil seem to have reserved the lord's multure while permitting the burgess to bake for himself.[2] But two at least of the English boroughs to which the laws of Breteuil were granted enjoyed a fuller exemption, doubtless by subsequent grant. The burgesses of Haverfordwest were free from "dry multure" and those of Preston from both mill and oven suit. The latter might have their own ovens and charge others "furnage" *(furnagium)* in the shape of bread weighing one halfpenny *(una obolata)* from every *summa* (a quarter, according to Thorold Rogers), of wheat baked;[3] the owner of the flour had to provide the wood used to heat the oven.[4]

In the charters of the Cheshire groups of boroughs (except that of Congleton, which says nothing about the oven suit), both milling and baking rights are expressly reserved to the lord. They do not even allow the burgesses (though this may be due to their greater brevity) as the charters of Salford and Stockport implicitly do[5] to bake for their own use, and the men of Knutsford were expressly forbidden to erect ovens "within the four gates of the town."

1. *Cardiff Records*, i. 10-11.

2. *Eng. Hist. Rev.*, xv. 757.

3. But at Knutsford the (lord's) *furnarius* was entitled to a halfpenny for each bushel (Ormerod, i. 489).

4. *Eng. Hist. Rev.*, xv. 498.

5. And as Robert de Ferrers explicitly did to his burgesses at Agardsley (*Newborough*) in Staffordshire (*Eng. Hist. Rev.*, xvi. 834).

From the wording of the Salford and Stockport clauses it would appear that the former town had no seignorial mill at the time of the granting of the charter, and the latter neither mill nor oven. But in each case the lord reserved his right to erect them and exact suit to them from the burgesses. The specific claim in the Stockport clause to a multure not only in the case of corn grown within the bounds of the town, but of all corn brought into the borough (*i.e.*, by purchase) reappears in almost identical words in the Altrincham charter, which is some thirty years later in date.[1] These Cheshire barons were less generous than the Abbot of Ramsey, whose tenants might grind the corn they bought wherever they liked.[2]

The lord's multure or milling "custom" was taken in the form of a proportion of the grain required to be ground. The corn was usually measured into the hopper, in a vessel *(vas)*, or measure—a strike bushel,—and just as the parson took every tenth sheave for his tithe, the lord took every sixteenth or twentieth measure of corn, or some other proportion fixed by local custom. According to Sir Anthony Fitzherbert, who wrote in the sixteenth century, this was sometimes determined by the strength of the water, a higher toll being taken where a stronger stream drove a broader stone, and so permitted more effective grinding.[3] But he admits that the proportion was usually fixed by the will of the lord. In the three boroughs and the Cheshire group whose charters present many similarities, custom varied in this matter. At Congleton, Macclesfield, and Knutsford the lord's share was a twentieth, as at Salford. But at Altrincham the baron of Dunham exacted an eighteenth and Robert de

1. Ormerod, i. 536.
2. *Cart. Rams.*, i. 473.
3. Harland, *Mamecestre*, pp. 114, 223.

Stockport insisted on the still higher proportion of a sixteenth—one of the few points in which his charter diverges from its Salford model.[1] He may here have copied the Manchester custom which, being older than the charter, is not mentioned in it, but is known from the 14th century extents of the manor to have allowed the lord, at his mill on the Irk, a sixteenth of all the corn of the burgesses and his tenants in Manchester and seven of its hamlets, except the lord of Moston, who was specially privileged. Not only did he pay at the lighter rate of a twentieth, but he was hopper-free, which is explained by Sir Anthony Fitzherbert to mean that "his corn should be put into the hopper and ground next to the corn that is in the hopper at the time of his coming," that is to say, his corn took precedence of any that might have been brought in before it but had not begun to be ground.[2] The Grelleys had another mill at the hamlet of Gorton on the Gore Brook, where their proportion was the same as at their Manchester mill. There is no trace at Manchester of the differential rate according to the class of tenants which, Fitzherbert says, sometimes obtained, tenants-at-will grinding to the sixteenth part and villeins to the twelfth part.

The Statute of Victuallers of 1275 apparently tried to fix the multure at the uniform and moderate rate af a twentieth or a twenty-fourth, but if so it was not observed at Manchester.

The statute also sought to check the frauds of millers by prescribing the general use of the king's measure and forbidding the rougher method of measurement by the heap, a door for which had perhaps been left open by the use in some charters (*e.g.*, those of Congleton, Macclesfield

1. A sixteenth was the usual French fraction (*Eng. Hist. Rev.*, xv. 757.)
2. *Mamecestre*, p. 281, cf. p. 114.

and Knutsford and the Manchester extents) of the expression "grinding to the sixteenth (or whatever the proportion was) corn *(granum)* as an equivalent for "grinding to the sixteenth measure" *(vas)*. But in spite of Acts of Parliament the dishonest miller of the Canterbury Tales was doubtless no uncommon type.

"Wel coude he stelen corn and tollen thryes" (thrice).
(*Prol.* l. 563.)

VI. BURGESSES' RIGHTS IN THE LORD'S WOODS AND PASTURES, ETC.

1. **Pasture and Pannage.**

Ipsi autem burgenses habebunt communam[1] liberam pasturam in bosco, in plano, in pasturis omnibus pertinentibus ville Salfordie. Et quieti erunt de pannagio in ipso bosco ville de Salford. (17)

[1] *Communa* here and in the Altrincham Charter seems to be used in opposition to *pastura*.

Ipsi autem burgenses habebunt communem pasturam et liberam[1] in bosco, in plano, in turbario, in bruario, in moris, in pasturis et in omnibus communibus easiamentis ville de Stokeport; et quieti erunt de pannagio in bosco ville de Stokeport pertinente. (17)

[1] Watson reads "liberi erunt" which makes rather better sense.

Burgenses possunt nutrire porcos suos prope nutritos in boscis Domini exceptis forestis et parcis Domini predicti usque ad terminum pannagii. Et si velint ad predictum terminum decedere liceat eis absque licentia Domini. Et si velint moram facere ad terminum pannagii de pannagio satisfaciant predicto Domino. (18)

Common of pasture, that is a right to pasture cattle on land owned by another, was perhaps regarded as "appendant" without special grant to every freehold tenement on a manor, even as early as the 13th century.[1] But in any case the creation of new burgage tenements would require to be accompanied by a specific grant of common rights if the burgesses were to enjoy them. The omission of any such grant in the Manchester clause does not necessarily mean that Grelley's burgesses had no common rights. He was not creating a new borough, and may have considered that this particular "custom" did not need express confirmation. A prescriptive right

1. Pollock and Maitland, *Hist. Eng. Law*, i. 621.

of the burgesses to common of pasture on the lord's waste at Collyhurst was recognised by a judicial decision in the 17th century.[1] In 1322 there were 74 acres of pasture at Bradford and Alport, but from this the lord was deriving an income.[2]

Grants of common of pasture figure in all the charters of the Cheshire group of boroughs. The burgesses of Macclesfield were granted pasture rights in the forest of Macclesfield, those of Frodsham in the earl's forest and marsh and "all other places in which my free men have pasture," those of Altrincham within the limits of Dunham, Altrincham, and Timperley, those of Congleton *in territorio de Congleton*, and those of Knutsford and Knutsford-Booths within the bounds of those places. In several cases there were limitations on the right. At Macclesfield the privilege was subject to the earl's pannage (see below) in autumn. The men of Knutsford were not to put more cattle on the land than it could support in winter, and Hamo de Massey excluded the Altrincham burgesses from the land he had "approved" or enclosed from the waste and he reserved for himself and his heirs, the right of enclosing Sunderland (the low land between Dunham and Carrington Moss) which was also closed to them annually during the time of pannage. Elsewhere we hear of cases where there was no waste (*e.g.*, Tenby), and the burgesses' pasture rights were restricted to the time between harvest and Candlemas.[3] In places where the waste included moor, turf, bog (turbarium), and heath (bruera, bruarium), common rights were given in these. Thus the men of Congleton had the privilege *de turbis et petis fodiendis, siccandis et carriandis in*

1. Harland, *Mamecestre*, p. 525.

2. *Mamecestre*, p. 365. The burgesses certainly had no common in Alport Wood which could be included as pasture at the will of the lord' (*Ibid.* p. 368).

3. *Eng. Hist Rev.*, xvi. 102.

turbario de Congleton. Common of turbary also existed at Knutsford and Altrincham.

The lords of Salford and Stockport liberally opened their woods to the burgesses' pigs free from the usual payment for their feed known as pannage.[1] It was in the autumn when the mast *(pessona)*, that is beech-nuts, acorns, &c., lay on the ground beneath the trees that the swine were usually turned into the woods, and *pannage* was paid at Martinmas.[2] It was paid either in pigs—every third hog was a common proportion—or in money.[3] But the swine could find some sustenance in the woods even before the time of mast, and it was only in the summer that the Manchester pigs were admitted free into the lord's woods. If they were left there through the autumn their owners had to pay pannage. The expression *prope nutritos* is probably a warning that the woods in the summer must not be expected to do more than supplement the feeding the swine received in the town.[4] The woods in question were those of Alport and Bradford and the excluded park that of Blackley.[5]

The only borough in the Cheshire group whose charter conferred exemption from pannage was Congleton, and the burgesses of Altrincham were worse off than those of Manchester, for they had to pay for swine turned on to the lord's land between the feast of St. James (25th July), and the time of mast. During the pannage period they were expressly forbidden to take them elsewhere. William de Tabley at Knutsford took every third hog as pannage for swine "fat with his mast." Randle de Blundeville

1. *Pasnagium, pannagium,* from *pasco.*
2. 11 Nov., cf. Stubbs, *Select Charters,* p. 349.
3. Turner, *Forest Pleas* (Selden Soc.), pp, 59-60.
4. Cf. *porcos in burgagiis suis nutritos* in the Agardaley Charter (*Eng. Hist. Rev.*, xvi. 334).
5. Harland, *Mamecestre,* ii. 368.

specially reserved his *pasnagium* (misprinted *passuagium* in Ormerod, ii., 46) at Frodsham.

2. Timber and Fuel.

Iidem burgenses rationabiliter de predicto bosco capient omnia necessaria ad edificandum et ardendum. (18)	Predicti burgenses rationabiliter de predicto bosco capient omnia necessaria sua ad ardendum et edificandum. (18)

The Forest Assize of Henry II. allowed tenants of woods within the royal forest to take "what is necessary to them, that is to say, *estoveria*" from their woods, provided they did this without waste and under the supervision of the foresters.[1] Whether Salford Wood was then in the Forest of the Honour of Lancaster, and Stockport Wood in the forest of the quasi-royal earl of Chester does not appear. But, if they were, their lords obtained this right subsequently, in the case of Salford, by John's charter, when count of Mortain and lord of the Honour between 1189 and 1194,[2] and in that of Stockport by Randle de Blundeville's charter to his Cheshire barons. These latter received permission to take "housbote and haybote" in their woods, and that without the supervision of the earl's foresters.[3] *Housbote* was wood for building—the *necessaria ad edificandum* of the Salford and Stockport charters, *haybote* wood for hays, *i.e.*, hedges or fences. By their respective charters the burgesses of Knutsford, Altrincham, and Macclesfield, obtained this right of "housbote and haybote" from their lords, but earl Randle, in his own charter to Frodsham, only mentions wood for building which was to be taken under the eye of his foresters. His charter to the barons allows them to sell

1. Stubbs, *Select Charters*, p. 158.
2. Farrer, *Lancashire Pipe Rolls*, p. 418.
3. Ormerod, *Hist. of Cheshire*, i. 53.

or give away dead wood which corresponds to the wood *ad ardendum* or fuel of the Salford and Stockport clauses under consideration.

Whether the burgesses of Manchester enjoyed all or any of these rights in Alport and Bradford Woods is uncertain. But the absence of any mention of them in the extents of the manor perhaps suggests that the charter was silent on this head because the townsmen did not enjoy such privileges.

The "Laws" of Breteuil are thought to have included a grant of leave to take wood for building purposes and for fuel.[1]

WARRANTY CLAUSE AND RESERVATION OF TALLAGE.

Ego vero Ranulfus et heredes mei omnes predictas libertates et consuetudines predictis burgensibus et heredibus suis contra omnes gentes inperpetuum warantizabimus, salvo mihi et heredibus meis rationabili talliagio quando Dominus Rex burgos suos per Angliam talliare fecerit. (27)	Ego vero et heredes mei omnes predictas libertates et consuetudines predictis burgensibus et heredibus suis contra omnes gentes in perpetuum warrantizabimus, salvo mihi et heredibus meis rationabilibus talliagiis quando Dominus Rex Anglie burgos suos per Angliam talliari fecerit. (27)	Omnes libertates prenominatas ego predictus Thomas et heredes mei tenebimus predictis burgensibus et heredibus suis inperpetuum, salvo mihi et heredibus meis rationabili tallagio quando Dominus Rex fecerit tallagium per liberos burgos suos per Angliam. (35)

A warranty clause was not an essential part of a borough charter or of any charter of feoffment. The formula *Sciatis me dedisse* entitled the grantee to vouch the grantor to warranty. In Henry I.'s charter to London and other early borough charters the testing clause follows immediately the enumeration of liberties bestowed. Under Henry II. the custom came in of rounding off royal charters to boroughs with assurances of undisturbed enjoyment of these liberties. Thus Henry's charter to Nottingham concludes: *Quare volo et*

1. *Eng. Hist. Rev.*, xv. 757.

praecipio quod predicti burgenses predictas consuetudines habeant et teneant bene et in pace, libere et quiete et honorifice et plenarie et integre sicut habuerunt tempore regis Henrici avi mei.[1] The "customs" were sometimes expressly assured to the descendants of the existing burgesses, *e.g., Quare volumus et firmiter praecipimus quod ipsi et heredes eorum haec omnia predicta hereditarie habeant et teneant de nobis et heredibus nostris.*[2] Most charters granted by the crown and great feudatories henceforward ended with the *quare volumus* clause in one or other of its forms. But a specific promise of warranty was often substituted in seignorial charters, following what had become a common practice in drawing up the ordinary charter of feoffment.[3] Of the Cheshire borough charters those of Frodsham and Macclesfield contain the "quare volumus" clause, the rest a warranty clause which at Knutsford is expressed to be *contra omnes homines et foeminas.*

The reservation of the right to tax or tallage the burgesses was not strictly necessary, and none of the charters of the Cheshire group of boroughs contain it. At Frodsham pannage and the mill and oven suit were saved, at Altrincham and Macclesfield the oven suit only, and at Knutsford the "summonitio de Culiward" (*sic* ? Castleward, cf. Ormerod, i., 53).

The burgesses of the three boroughs could not reasonably complain of a tax which was not to be arbitrary in amount, and only to be levied when the King tallaged the greater towns. They were much better off than villeins, who were sometimes tallaged once a year and "high and low."[4]

1. Stubbs, *Select Charters*, p. 167.
2. *Ibid.* p. 266.
3. *Hist. Eng. Law*, i. 224, 664.
4. *De haut en bas*; *Hist. Eng. Law*, i. 368.

SEALING CLAUSE.

In cujus rei memoriam presenti pagine sigillum meum apposui: Hiis testibus

domino Willelmo justiciario Cestrie
Simone de Monteforti
Pagano de Chaworth (Chau'r't)
Fulcone filio Warini
Gilberto de Segrava
Walkelino de Ardern
Ricardo de Vernun
Rogero Gernet
Rogero de Derby
Galfrido de Buri
Hugone de Biri
Simone et Johanni clericis et multis aliis.

In cujus rei memoriam presenti pagine sigillum meum apposui: Hiis testibus

domino Hugone Despenser
domino Hamone de Massye
domino Willelmo de Massye
Roberto de Hyde
Galfrido de Cheadle
Galfrido de Bramale
Hamone de Bruninton
Roberto de Godley
Henrico de Worthe

Ut hæc donacio et concessio rata sit et stabilis sigilli mei appositione hoc scriptum roboravi: Hiis testibus

Dominis { Johanne Byron, Ricardo Byron } Militibus
Henrico de Traffordе
Ricardo de Hultone
Ada de Prestwyche
Rogero de Pylkington
Galfrido de Chatertone
Ricardo de Mostone
Johanne de Prestwyche
et aliis.

Datum apud Mamecestre quartodecimo die Maii anno Domini millesimo triscentesimo primo et Anno regni Regis Edwardi filii Henrici Regis vicesimo nono.

By the middle of the 12th century the French plan of authenticating documents by the apposition of a seal superseded the old method of signing with crosses. A seal was valuable evidence of the genuineness of a charter if it was disputed when all the witnesses were dead, for it could be compared with those on admittedly authentic documents.[1]

If Harland's reading of the somewhat defaced inscription on the still surviving seal attached to the Manchester charter is correct, Thomas Grelley, who had just come of age, sealed the document with his father's private or "secret" seal.[2] Within the oval is a full length figure,

1. *Hist. Eng. Law*, ii. 223-4.
2. *Mamecestre*, p. 211.

perhaps, as in some other cases, copied from a classical gem and surmised to be Mercury with a purse in his hand.

SALFORD. Sir William de Vernon, ancestor of the present lord Vernon, married Margaret, sister of Robert de Stockport, and with her received Marple; he also succeeded to the estate of Harleston in Staffordshire, and local genealogists have not been able to decide whether he was a younger son of Richard de Vernon, of Shipbrook, or a son of Walter de Vernon, of Harleston, who was probably Richard's cousin.[1] He was justiciar of Chester from 1229 to 1232.

For Simon de Montfort see above p. 46.

Pain de Chaworth *(de Cadurcis)* was a Gloucestershire baron, whose tenure of Kempsford, in that county, began before 1218, and whose son had succeeded him before 23 Hen. III. (1238–9).[2] Earl Randle's Gloucestershire connection—with Chipping Campden—may have brought Pain into the list of witnesses of his Salford charter.[3]

Fulk Fitz-Warine (c. 1197—c. 1257) of Whittington, near Oswestry, in Shropshire, makes a great figure in the famous mediæval romance of "Foulques Fitz-Warin," where many remarkable adventures are attributed to him. He sided with the malcontent barons against King John, and according to the romance he was reconciled with the crown by Earl Randle of Chester, with whom he afterwards went into Ireland and "there did noble Feates."[4] Fitz-Warine was afterwards, if not at the date of the Salford charter, a connection by marriage of the preceding witness. His niece, Hawise de London, the heiress of Kidwelly, in South Wales, married Pain de Chaworth's

1. Ormerod, iii. 245, 252, 840.
2. Dugdale, *Baronage*, i. 517.
3. *Eng. Hist. Rev.*, xvi. 96.
4. Leland, *Collectanea*, i. 236-7, ed. 1770; *Dict. Nat. Biogr.*, xix. 223.

son and heir, Patrick.[1] Harland, following Dugdale, confuses Fulk with his son and namesake who perished at the battle of Lewes in 1264.[2]

Gilbert de Segrave was the second son and ultimately (1241) the heir of Henry III.'s unpopular minister, Stephen de Segrave.[3] About the date of this charter the father is said to have purchased Mount Sorrell, in Leicestershire, from Earl Randle, while the son had a grant of the town of Kegworth in the same county from Simon de Montfort.[4]

Walkelin de Arderne was son and heir of Sir John de Arderne, of Aldford, Cheshire, whom he succeeded by 1237–8. In 1236 he presided over the earl's court *loco comitis*. In 1254 he was marshal of the King's household in Gascony and constable of Montcuq.[5] He died about 1265.[6]

Richard de Vernon (not Berun (Byron) as in Harland, *Mamecestre*, i., 202, 204) was perhaps a younger son of Richard de Vernon, baron of Shipbrook *temp.* Richard I.[7]

Roger Gernet, of Halton, near Lancaster, hereditary Chief Forester of Lancaster, had married Quenilda, one of the five co-heiresses of Richard, son of Roger, founder of Lytham Priory. She was a military tenant of the Earl of Chester.[8] The wife of Sir William de Vernon, the first witness, was her niece, a daughter of her sister Margery and Robert de Stockport.

Roger de Derby was probably of West Derby, near

1. *Exc. e Rot. Fin.*, i. 24, 26; *Testa de Nevill*, pp. 124, 152; *Calendarium Genealogicum*, i. 207.
2. *Mamecestre*, p. 203.
3. Dugdale, *Baronage*, i. 673; Foss, *Judges of England*, iii. 406.
4. Dugdale, u. s.
5. *Rôles Gascons*, i. Supplement 203.
6. Ormerod, ii. 77.
7. Ormerod, iii. 252.
8. *Testa de Nevill*, p. 401; Farrer, *Lanc. Pipe Rolls*, pp. 44, 226.

Liverpool. He may be identified with the Roger de Dereby who paid 20s. for the wardship of the heir of Nicholas Fitz-John in Lancashire in 1221, and with the Roger de Dereby who witnessed a charter to earl Randle's foundation Dieulacres Abbey, near Leek, with William de Vernon and others in 1227–8,[1] and an agreement between the earl and Roger de Marsey.[2] Geoffrey and Hugh de "Bury" I have not been able to trace. Is it possible that we ought to read Byron? A Geoffrey de Byron had lands at Barton and Reddish, near Manchester.[3] The clerks, Simon and John, both witnessed the earl's agreement with Roger de Marsey, which has thus five witnesses in common with the charter to Salford.

STOCKPORT. The difficulties met with in attempting to date the Stockport charter have already been briefly touched upon. It is unlucky that the Christian name of the grantor should have belonged to three successive lords of Stockport in the 13th century, and the two chief witnesses are not so helpful as they might be because there was a similar run of the names Hugh and Hamo in the families of Despenser and Massey. This iteration is worst in the case of the barons of Dunham (Massey), five of whose heads in succession were called Hamo. But the popularity of the name Hugh in the Despenser family is almost equally embarrassing. A charter witnessed by a Hugh le Despenser and a Hamo de Massey might very well belong to the early date (1225) to which this one has been generally assigned, or, indeed, to any date in the 13th century. The other witnesses were comparatively obscure Cheshire tenants and neighbours of the Stockports, and in the case of Geoffrey de Cheadle and Robert

1. *Exc. e Rot. Fin.* i. 74; Farrer, *Final Concords (Lanc. and Chesh. Rec. Soc.)*, i. 55.
2. Ormerod, *Hist. of Chesh.*, i. 37.
3. Farrer, *u.s.* p. 134.

de Hyde the difficulty caused by the repetition of the same Christian name is again encountered. Nevertheless, there is a certain amount of evidence in favour of a date considerably later than that just mentioned. The substantial identity of the Salford and Stockport charters is obvious, and such variations as exist, for instance, in the clauses regulating the burgess's right of alienation[1] seem best explained on the supposition that the Salford charter served as a model for that of the Cheshire borough and not *vice versa*. If this be so the date of the latter must be subsequent to 1230. It may, indeed, be urged that the close similarity of the two charters points to the conclusion that the "lord of Cheshire" from whom Robert de Stockport procured licence to grant his charter was earl Randle de Blundeville, the grantor of the Salford charter, in which case Robert's cannot be put later than 1232, the year of Randle's death. But if Stockport was a chartered borough as early as 1232 it is hard to understand why it should have had to wait nearly thirty years before obtaining a market and fair. Henry III.'s eldest son, Edward, as Earl of Chester, bestowed these privileges upon the third Robert de Stockport "in his manor of Stockport"[2] in 1260, and there is nothing in his charter to suggest that it was merely a confirmation of something already enjoyed. On the other hand, supposing the borough charter to be subsequent to the grant of the market and fair, we may find an explanation of a somewhat difficult passage in the first clause of the former. Had Earl Randle given Robert de Stockport licence to grant this charter we should have expected him to have been referred to as earl of Chester, and not as "lord of Cheshire" *(dominus Cestreshirie)*. The suggestion is

1. *Supra*, p. 66.
2. Heginbotham, *Hist. of Stockport*, ii. 297. Cf. Addenda, p. 202.

tempting, if hazardous, that this "lord of Cheshire" was no other than Simon de Montfort who, a few months before his death, extorted from the captive King and his son a grant of the latter's county and honour of Chester. During his brief tenure he may not have been called earl but only lord of the county. In this case the Hugh le Despenser who witnessed the charter of his tenant, Robert de Stockport, would be the famous justiciar of England and supporter of Montfort, the father and grandfather respectively of Edward II.'s two favourites. He had attested Edward's grant of 1260 as justiciar of Chester.

It will be well not to press with too much ardour the suggestion just made, for we may be attaching a more precise meaning to the language of the charter than was intended. But if Simon de Montfort was not the "dominus Cestreshirie" in question, there is a strong probability that Edward himself is the person referred to. That the Stockport charter was considerably later in date than the Salford one seems implicitly proved by the insertion of an express prohibition of alienation of burgage tenements to the Jews,[1] which does not occur in the latter. It was not until the middle of the 13th century that the holding of land by Jews became a burning question, and it was only in 1271 that a royal edict forbad it altogether.[2] If any technical significance is to be attributed to the phrase "dominus Cestreshirie," its application to Edward might be explained by the fact that he rarely, if ever, used the title earl of Chester, styling himself in his Cheshire charters "Regis Anglie primogenitus."

The names of the witnesses to Robert de Stockport's

1. *Supra*, p. 66.

2. Maitland, *Hist. of Eng. Law*, i. 473. The Agardsley charter in which the prohibition also occurs was granted in 1263.

charter are none of them inconsistent with a date about 1260, and in one or two cases to all appearance positively confirmative. Unless Ormerod, or rather Sir Peter Leycester, misleads us, the William de Massey of our charter was brother of the fifth Hamo de Massey of Dunham, and lived in the later years of Henry III.'s reign, and the beginning of that of Edward I.[1] Henry de Worth is in all probability the forester of Macclesfield forest of that name, who is mentioned as late as 1288.[2]

MANCHESTER. The careful dating of this charter, which passed on Sunday, 14th May, 1301, makes it unnecessary to examine the list of witnesses. Those mentioned are the contemporary heads of the leading local families round Manchester.[3]

TRANSLATION OF THE MANCHESTER CHARTER.

Be it known unto all of this and future generations that I Thomas Grelle have given and granted and by this my present charter confirmed to all my burgesses of Manchester, to wit (*supra*, p. 62).

That all the burgesses shall pay a rent of 12d. a year for each of their burgages in lieu of all service (p. 63).

That, if need be, it shall be lawful for anyone to sell or give such part of his land as he has not inherited to anyone he wishes unless his heir desires to purchase it; but his heir should have the right of pre-emption (p. 66).

That anyone may sell land he has inherited, either in part, greater or less, or as a whole provided he has the

1. Ormerod, *Hist. of Cheshire*, i. 521.
2. *Ibid.* iii. 687.
3. Harland, *Mamecestre*, p. 238.

consent of his heir. And even if the heir refuses his consent nevertheless, if need arises, he shall be allowed to sell land of his inheritance whatever the heir's age may be (p. 66).

That if anyone finds himself obliged to sell his burgage he may acquire another from his neighbour and every burgess may transfer his burgage to his neighbour under the supervision of his fellow burgesses (p. 66).

That it shall be lawful for the aforesaid burgesses to transfer their personal chattels to any person they please within the fief of the aforesaid lord, freely and without the licence of the said lord (p. 66).

That if the burgess sells his burgage and wishes to leave the town he shall give the lord four pence and go freely wherever he wishes (p. 66).

That the burgess who has no heir shall have power to bequeath his burgage and chattels at his death to whomsoever he pleases, saving however the service due to the lord (p. 67).

That on the death of a burgess his wife shall continue to dwell in his house and be furnished with necessaries so long as she is willing to remain without a husband and the heir shall dwell with her but if she decides to remarry she shall leave the house and the heir shall remain in it as its master (p. 70).

That on the death of a burgess his heir shall not be required to give to the said lord any relief other than some kind of arms (p. 70).

That the burgesses ought to and have power to elect anyone they please from their own number to be reeve and to remove the reeve (p. 71).

That no one may receive possession of any property within the town except in the presence of the reeve (p. 71).

That if anyone is impleaded in the borough on any plea he need not make answer to the charge, whether it is brought by a burgess or a villein or even a vavasor, save in his borough court, pleas of the crown and theft excepted (p. 73).

That if anyone accuse a burgess of theft the reeve shall take security from the latter that he will appear to answer the charge in the lord's court and stand his trial (p. 74).

That all the aforesaid pleas shall be decided in the presence of the seneschal, and shall be entered in a roll by the said lord's clerk (p. 74).

That if anyone shall wound another in the borough the reeve shall, if he be taken outside his house, compel him to give his bond and find securities (for his appearance to answer the charge) (p. 77).

That if anyone shall be impleaded previous to the day on which the borough court (laghmot) meets and shall come to that meeting he must answer the charge, and ought not to urge excuses for delay without incurring forfeiture. But if he be impleaded for the first time at that court he shall be allowed a delay until the next (p. 78).

That if anyone shall be impleaded by his neighbour or any other and shall have attended on three court days he shall not be required to make any further defence to that charge if he has the witness of the reeve and his neighbours of the borough court that his adversary failed to appear at those three meetings of the court (p. 79).

That if anyone prefers any complaint and does not give bond and securities (to prosecute it) he shall not incur forfeiture if he afterwards desires to withdraw it (p. 79).

That if any burgess shall implead a burgess in a matter of debt and the latter admit the debt the reeve shall allow him a week, and if he does not come and pay the debt on the eighth day he shall forfeit twelve pence to the lord and shall pay the debt and give the reeve eightpence (p. 79).

That if the town reeve shall lay a charge against anyone in any plea and the person charged shall not come, on the day [fixed], nor anyone in his place, to the Lawmoot, he shall forfeit twelve pence to the said lord and the said lord shall have his action against him in the Portmoot (p. 79).

That burgesses may distrain upon men for debts owed to them whether the debtors be knights or priests or clerks if they be found in the borough (p. 81).

That if a burgess shall have made a loan to a villein in the borough and the term for which the loan is made shall have elapsed he may levy a distress upon the villein in the borough and by the distress may certify him. And he shall restore the goods distrained, on the debtor finding securities for payment within a week, at the end of which the securities shall hand over either the goods or the money (p. 81).

That everyone ought to and has the power to represent his wife and family in a suit and the wife of every one may pay his rent to the reeve and represent her husband in a suit if he be absent elsewhere (p. 83).

That no one shall have power to put his neighbour to

the oath unless he produces witnesses to some complaint (that he has against him) (p. 84).

That if a villein brings any charge against burgesses they need not make answer to his charge unless he brings burgesses or other lawful men as witnesses (p. 84).

That if anyone has lent anything to another without witnesses the borrower shall not answer for anything to him unless he brings witnesses, and if the lender produces witnesses the borrower may deny the loan by the oaths of two men (p. 84).

That if any burgess shall fall out with another and in anger strike him without shedding blood, and be able to regain his house without being challenged by the reeve or his servants he shall not be impleaded by the reeve; and if he can bear the revenge of him on whom he committed the assault it may so be done but if not he may with the advice of his relatives make his peace with him without any forfeiture to the reeve (p. 86).

That if any burgess shall wound another burgess within the borough on Sunday or from noon on Saturday to Monday he shall forfeit twenty shillings; and if he shall wound anyone on Monday or any other day of the week he shall forfeit twelve pence to the lord (p. 86).

That whoever breaks the assize of bread or of beer shall forfeit twelve pence to the lord (p. 89).

That the burgess of whomsoever he shall buy or sell within the lord's fief shall be free of toll. And if anyone from another district shall come who ought to pay dues and leave without paying toll and shall be detained by the reeve or other person the forfeiture to the lord shall be twelve shillings and he shall pay his toll (p. 92).

That the reeve ought to assign to every burgess and the tensers their stalls in the market place and receive from them one penny for the lord (p. 95).

That if the burgess or tenser wishes to occupy the stalls of the merchants he must pay the lord the same as a stranger does, but if he occupies his own stall then he is to pay nothing to the lord (p. 95).

That the aforesaid burgesses shall do suit to the lord's mill and oven paying the accustomed charges of the mill and oven as they ought to do and as they are accustomed to do (p. 98).

That the burgesses may feed their swine, which are nearly fattened, in the lord's woods, except his forests and parks, until the time of pannage; and if they then wish to leave they may do so without the lord's permission; and if they desire to remain for the time of pannage they shall pay the lord his pannage (p. 102).

All the above-mentioned liberties I the said Thomas and my heirs will maintain to the said burgesses and their heirs for ever, saving to me and my heirs reasonable tallage when the lord King levies tallage on his free boroughs throughout England (p. 106).

[For sealing clause see p. 108].

Chapter IV.

The Grelleys.

The history of the first line of lords of Manchester given by Baines and Harland contains many serious errors and omissions. The former is especially inaccurate and, as his work is more generally consulted than Harland's, particularly apt to mislead the local antiquarian. In the following pages numerous mistakes that have long passed current are corrected and a fuller account of a family which is not of merely local importance supplied than has hitherto been available.[1] The early lords of Manchester bore a name whose spelling was perhaps more than usually erratic and one of its variants, Gresley, is responsible for an unfortunate confusion with the family bearing that surname seated at Drakelow, in Derbyshire. Although both held their lands of the honour of Lancaster they were quite different families. Both were of Norman origin, the founder in each case coming over in the reign of the Conqueror, but the surname of the one is English that of the other French. The Derbyshire Gresleys, who still remain on their ancestral estate, took their name from one of their manors adjacent to Drakelow on which they erected a castle. In mediæval documents they are always described as of Gresley *(de Griseleia)*.[2] This territorial appellation seems to have been first borne by the second

1. Since this chapter was written, Mr. Farrer has dealt exhaustively with the history of the Grelleys in an article published in the Transactions of the Historic Society of Lancashire and Cheshire (N.S., xvii. 23-58). I am indebted to it for several corrections.

2. Castle Gresley is now a township in the parish of Church Gresley. The present representative of this ancient family is Sir Robert Gresley, eleventh baronet. See Madan, *The Gresleys of Drakelow* (1899); *The Ancestor*, i. 195. Greasley, seven miles north west of Nottingham, gave its name to another family sometimes confused with them. It became extinct in the male line early in the 13th century (Dugdale, *Baronage*, i. 608).

holder of the fief, William de Gresele.[1] His father was known as Nigel de Stafford, and is conjectured to have been a younger brother of Robert de Stafford, ancestor of the earls of Stafford and dukes of Buckingham. If so Nigel was a son of Roger de Toeni, the standard-bearer of Normandy.

The form in which the surname of the ancestor of the barons of Manchester appears in Domesday Book[2] points to a totally different origin. Albertus Greslet he is there called. Greslet cannot be a territorial name, and seems to be an instance of the Norman love for giving distinctive names referring to personal appearance or behaviour. Some of these nicknames, which did not in every case get transmitted as surnames, were polite enough; for instance, "the Fair" (Blund whence Blount or Blunt), but however uncomplimentary they might be they clung pitilessly to the victims, even in solemn official records. "The Ass" *(Asinus)*, "the Wolf-face" *(Visdelou)*, and "God save the ladies" *(Deus salve dominas)* relieve the gravity of Domesday Book itself. Cheshire has among its earls Hugh "the Wolf" *(Lupus)*, and Randle "Moustachios" *(Gernons)* and in humbler circles a rare example of the complimentary nickname in the person of William "Who cannot tell a lie" *(spernens mendacium)*.[3] It is true that the territorial particle is occasionally given to the Grelleys, but this practice does not occur before the 13th century and is quite exceptional even then. That "Greslet" hit off some personal peculiarity of the first Albert (or of one of his forbears) can hardly, then, be doubted, but what that peculiarity was it is not easy to determine. Was he pock-marked[4] or unusually slim of

1. Round, *Feudal England*, p. 200; *Liber Rubeus* (Rolls Series), i. 336.
2. D. B. i. 270.
3. Ormerod, *Hist. of Chesh.*, ii. 464.
4. *Greslé*=spotted (Godefroy, *Dict. de l'ancienne langue française*, ix. 724).

figure?[1] The final "t" in the oldest form of the name perhaps renders the latter hypothesis the more probable. The spelling, Grelle or Grelley, shows the true pronunciation of the name, and in itself proves that it had nothing to do with the Derbyshire Gresley, in which the "s" must always have been sounded.[2] The truth is that the alleged connection between the two families is the merest inference from an accidental similarity of their names as written, and breaks down at once when submitted to the test of facts. Their coats of arms, for example, were entirely different, for the barons of Manchester bore *gules, 3 bendlets enhanced or*, which is the old armorial bearing of the town, while the Drakelow coat was *vairy, ermine and gules*.[3]

An historical connection between the Drakelow Gresleys and Manchester, though not with the Grelleys, is suggested by Mr. Farrer in his valuable "Notes on the Domesday survey between Ribble and Mersey." He there inclines to identify the knight Nigel, who in 1086 held a considerable estate in Salford Hundred by gift of Roger the Poitevin, which there is some reason to regard as the manor of Manchester, with Nigel de Stafford the progenitor of the Gresleys of Derbyshire (but not, as Mr. Farrer asserts, "of the baronial house of Stafford.")[4] Nigel de Stafford, however, held no land of Roger the Poitevin at that date at all events, and the suggested identification with the Nigel of Salford Hundred is quite unsupported. There is certainly no evidence for the statement that he was deprived of

1. *Graislet* or *Grailet*=un peu grêle, mince-(Godefroy, ix. 715).

2. The other common forms of the Manchester name are Gresle, Greslei, Gresley, and even Gredle.

3. Baines, *Hist. of Lancashire*, ed. Croston, ii. 25. Mr. Croston's suggested connection between the Cornish family of Grylls and the Manchester Grelleys sounds exceedingly improbable. The Grylls coat entered in 1577 is certainly that of Grelley with the tinctures reversed, but this may be an accidental resemblance or an instance of the unscrupulous affiliation of which the heralds of that age were too often guilty.

4. *Trans. Lanc. & Chesh. Antiquarian Soc.*, xvi. 33.

Drakelow and another manor at the time of Roger's (alleged) forfeiture of his estates in Amounderness and "Between Ribble and Mersey" before the date of Domesday Book. That record shows him in possession of both manors.[1] Having thus cleared away some preliminary misconceptions we may now proceed to piece together painfully enough what little is known of the successive heads of the Greslet or Grelley line.

1. ALBERT (Fr. AUBERT) I., *fl.* 1086–1094. It is in the pages of Domesday, under the heading "Between Ribble and Mersey," that we get our first glimpse of the original Albert Greslet. He there appears as joint grantee from Roger the Poitevin of the manor and hundred of Blackburn[2] with Roger de Busli, lord of Tickhill and a great tenant in chief in Nottinghamshire and South Yorkshire. Except that he was obviously of Norman birth nothing is known of Grelley's previous history. For the too ingenious argument by which Mr. Croston makes him a brother of his co-grantee and a kinsman of the grantor will not bear a moment's examination. Albert Greslet is, he urges, the same person as Albert Bussel, brother of Warin Bussel, lord of Penwortham, and Bussel is only another form of Busli.[3] This wild identification affords a good illustration of the mingled ignorance and rashness of too many local antiquaries. It needed no very profound research to discover that Bussel, or Boissel, as it was originally written was a personal name like Greslet, and never took the territorial "de," while Roger de Busli derived his name from Bully in the present department of Seine Inférieure. The very existence of an Albert Bussel at this date is uncertain. Warin Bussel had indeed a

1. D. B. i. 250, 278. For Roger's 'forfeiture,' see *infra* p. 157.

2. D. B. i. 270. 'Hanc terram totam dedit Rogerius Pictavensis Rogerio de Busli et Alberto Greslet.' They had put in two sub-tenants.

3. Baines, *Hist. of Lanc.* (ed. Croston), ii. 26.

brother who as A. Boissel witnessed Roger the Poitevin's charter founding Lancaster Priory, but we have no means of determining his Christian name, and whatever it may have been he was evidently a different person from Albert Greslet, who witnesses the charter with him.[1]

Mr. Croston's inference from the supposed relationship between Grelley and Roger de Busli that the former was also a brother of Hugh "Lupus," earl of Chester, of course falls to the ground when it is demonstrated that no such relationship existed. But it may be as well to point out that there is absolutely no foundation for the assertion that Roger de Busli and Hugh of Chester, were brothers. The error arose from a confusion between William of Eu (executed in 1096), who married Hugh's sister, and William, Count of Eu (1090—), whose wife, Beatrix, was sister and heir of Roger de Busli.[2] Moreover, this was not the Roger de Busli of 1086, but his son.

That such a tissue of absurdities as that we have just analysed should appear in what is as yet the standard history of Lancashire is discreditable to the scholarship of our local historians.

Grelley's share of Blackburn and its hundred seems to have been all that he held in 1086 by gift of Roger the Poitevin in what afterwards became Lancashire. But he was also an under-tenant of Roger in the East of England, if he is correctly identified with the "Albertus homo Rogeri," who held Hainton, in North Lincolnshire of Roger, and the Albert, who was Roger's under-tenant at Tunstead and two other manors in Norfolk and at Blakenham and Willisham (near Needham Market), in Suffolk.[3] All these manors undoubtedly belonged to his descendants in

1. *Materials for the History of the Church of Lancaster* (Chetham Soc. N.S. xxvi.), p. 8; *Monasticon Anglicanum*, v. 564, vi. 997.

2. G. E. C., *Complete Peerage*, iii. 290.

3. D. B. i. 352; ii. 244, 351 b.

the 13th century.[1] A difficulty, however, arises from the fact that when the Lindsey Survey was drawn up between 1115 and 1118 an Albert presumably the "Albertus homo Rogeri" of thirty years before, held Hainton, while Robert "Greslei," no doubt the son of Albert Greslet, was a tenant in chief at Nettleton and Goltho in the same district.[2] The explanation may be that Albert Greslet was still alive at that date and in possession of the estates which he had received from Roger the Poitevin, and that his son owed his tenancy of Goltho and Nettleton, which belonged to Erneis de Buron in 1086, to a direct grant from the crown after the escheat or forfeiture of Erneis' estates. In that case, however, it is singular that the epithet Greslei is given to the son and withheld from the father. All that can be said with certainty is that Albert was still alive in 1094, when he acted as a witness to Count Roger's charter founding Lancaster Priory, and evidently dead before 1127, when Robert Grelley occupies a similar position in the foundation charter of Furness Abbey.[3] How Albert Grelley escaped being involved in the rebellion and forfeiture of Count Roger who, with his brothers, paid the penalty of their support of Duke Robert against Henry I. in 1101–2, does not appear. In the readjustments consequent on the downfall of his superior lord, or perhaps more probably at the hands of Count Roger himself in the reign of Rufus, he may have been enfeoffed with certain estates, Bloxholme in Lincolnshire and Cotgrave in Nottinghamshire, for instance, which had been royal demesne in 1086[4] but were afterwards held by the Grelleys under the honour of Lancaster

1. *Testa de Nevill*, pp. 308, 332, 295.

2. *Roll of Landowners in Lindsey under Henry I.* (ed. Chester Waters), pp. 30, 35. For its date see Round, *Feudal England*, p. 189.

3. Farrer, *Lancashire Pipe Rolls*, pp. 290, 302.

4. D. B. i. 290, 352.

(representing Count Roger's forfeited fief). If Albert's interest in the hundred of Blackburn had not already determined it must have come to an end in 1102, for in November of that year Robert Lacy, of Pontefract, was in possession of Clitheroe and its district.[1] Albert's co-grantee, Roger de Busli, had died between 1090 and 1098, and his death is one of the possible occasions on which Count Roger may have transferred the hundred of Blackburn, as he certainly did the neighbouring Bowland, to Lacy.[2] On the other hand, Busli's lands here may have passed with the rest of his estates into the hands of Robert de Bellême, have been included in the forfeiture of 1102, and then been regranted to Robert de Lacy. The fact that the suppression of the rebellion was immediately followed by Lacy's grant of land in Clitheroe and other townships in Blackburn hundred to his younger brother as far as it goes lends some colour to this hypothesis.

The question now arises whether Count Roger or Henry I. compensated Albert Grelley for the loss of his share of Blackburn hundred by giving him the great manor of Manchester. Was he the first baron of Manchester? It seems highly probable, but owing to the scantiness of the information at our disposal clear proof of it is still lacking. Mr. Farrer, indeed, claims to have adduced such a proof, but this is perhaps questionable.[3] He thinks he has discovered in the inquest of the county taken in 1212, and preserved in the *Testa de Nevill*, a record of an enfeoffment within the barony by an Albert Grelley, or Grelle, as he is there called, who can only be the first of that name. The suggestion is that grants which have always been ascribed to his grandson of the same name were really made by the first Albert. There were three

1. Farrer, *Lanc. Pipe Rolls*, p. 385.
2. *Ibid.* p. 382; Dugdale, *Baronage*, i. 99.
3. *Lanc. Pipe Rolls*, pp. 403, 599.

Alberts in all, the third being the son and successor of Albert II. He is distinguished by the jurors of 1212 as Albertus *juvenis* or *junior*. A number of enfeoffments are referred to Albertus *senior*, by which, as Mr. Farrer admits, Albert II. (*fl. circa* 1158—1170) is meant. In the case of one grant, however, which is referred to Albertus *senior*, he considers that the *senior* is a clerical error, and that the donor was Albert I. Albert Gredle, *senior*, is recorded to have given to Orm, son of Ailward, as part of the marriage portion of his daughter, Emma, a carucate of land in Eston.[1] But in the record of another part of this marriage portion, a knight's fee in Dalton, Parbold, and Wrightington, Emma's father is described as Albert Gredle, *senex*.[2] Mr. Farrer argues that *senex* is used to distinguish Albert I. from Albert *senior* and Albert *juvenis*, that the apparent equivalence of *senex* and *senior* in the two passages quoted is due to a mistake and that *senex* should be read in both. This view he proceeds to support by an argument of a different and more weighty kind. It takes us into one of the most thorny questions of Lancashire genealogy. Who was the Orm son of Ailward, mentioned in the *Testa de Nevill* and nowhere else, and what was his relation to the later tenants of Dalton, Parbold, Wrightington, and Ashton-under-Lyne? Some have seen in him an ancestor on the spindle side of the Lathoms of Lathom, others the progenitor of the Ashtons of Ashton-under-Lyne. Much ink has been spilt over this knotty problem. And now Mr. Farrer enters the lists with a third view, which makes him the ancestor of the Kirkbys of Kirkby Ireleth, in Furness, whose mesne lordship of the manors in question, which were held of

1. *Testa de Nevill*, vol. ii. fol. 823.
2. *Ibid.* fol. 822.

them by the Lathoms and Ashtons, he has for the first time shown to have existed as early as the reign of Henry II.[1] Now the pedigree of the Kirkbys is pretty well known up to Roger, who seems to have lived under Stephen and Henry II. If he was son of Orm son of Ailward, it seems impossible that Albert Grelley II., who did not succeed his father, Robert, until after 1154, can have been Orm's father-in-law, and Emma must have been a daughter of Albert Grelley I. If there is any fatal flaw in this reasoning I have not yet succeeded in putting my finger upon it. But it is important to observe that the evidence of the *Testa de Nevill*, as it stands, does not fit in very well with the hypothesis before us. The distinction which Mr. Farrer endeavours to establish between *senex* and *senior* is quite arbitrary,[2] and the record ascribes to the same Albert, who gave Ashton with his daughter to Orm, son of Ailward, another grant whose recipient can hardly have been old enough in the first Albert's time to be enfeoffed by him. The grant was one of land in Flixton to Henry, son of Siward.[3] He was lord of Lathom and father of Robert, son of Henry, who founded Burscough Priory about the beginning of Richard I.'s reign, and died in 1199.[4] Even if one allows both father and son a length of years considerably exceeding the ordinary span of life in that age it is hard to see how Henry, son of Siward, can have been more than a boy when Albert Grelley I. died, unless Albert's life was more prolonged than is generally thought. If the Roger, son of Gospatric, who held land in Lathom in 1212,[5] was the son of the Gospatric who had been enfeoffed with this

1. *Op. cit.*, p. 405.
2. Albert III. is called indifferently *juvenis* and *junior*.
3. *Testa de Nevill*, vol. ii. fol. 823.
4. Farrer, *Lanc. Pipe Rolls*, pp. 349 sqq.
5. *Testa de Nevill*, vol. ii. fol. 812.

land by Henry's father Siward, son of Dunning, it would seem probable that Siward, who did not acquire Lathom until after the date of Domesday, must have outlived the first Albert Grelley by a good many years, and that his son lived well on into the reign of Henry II. is rendered likely by the fact that between 1198 and 1208 a jury reported that the last presentation to the church of Flixton had been made by him.[1] This seems to point to the conclusion that it was the second Albert Grelley who enfeoffed him with Flixton, and if so it was this Albert who, supposing the text of the *Testa de Nevill* to be correct, was father-in-law of Orm, son of Ailward. Mr. Farrer, however, is of opinion that this conclusion cannot be made to square with the Kirkby pedigree and with an additional piece of evidence to which he has called my attention. Thomas of Monmouth, the monk whose life of St. William of Norwich, the boy who was alleged to have been murdered by the Jews of that city in 1144, was recently published by Dr. Jessopp, relates an anecdote of a miracle wrought by the saint in favour of a boy, Albert Greslei, son of a great magnate, Robert Greslei. The lad possessed a favourite falcon, which fell sick and seemed about to die. Grief-stricken, Albert called upon the martyred William to save its life and he would bring an annual offering to his shrine. His elders laughed at the idea of the saints being appealed to in so trivial a matter. But their ridicule was converted into awed amazement on the sudden recovery of the bird. These facts Thomas declares he had from the Gresleis themselves when the son came with his father to Norwich to pay his vow.[2] If these were our Grelleys—who certainly had a manor (Tunstead) not very far from Norwich—it seems impossible

1. Farrer, *op. cit.*, p. 355. He must have died before 1169, however, if the Robert, son of Henry, who paid five marks to the aid of that year, was his son.
2. *Life and Miracles of St. William of Norwich*, ed. Jessopp (1896), p. 258.

to place Albert's birth much, if at all, before 1135, especially as it was some little time after William's death before miracles were ascribed to him.[1] In that case Albert could not have been the father-in-law of Orm, son of Ailward, if the latter was grandfather of William de Kirkby who witnessed a document not later than 1165.[2] On the other hand, the presumptive evidence would put Albert's birth considerably further back. His father must have been at least thirty-eight, probably more, in 1135, and if the son was born about this date his wife must have been very much his senior, for her father, William, son of Nigel, is mentioned in Domesday and can have been little less than seventy years old at his death in 1133. Albert's brother-in-law, Eustace, son of John, too, is described as *grandaevus* when he fell in the Welsh war of 1157.[3] Mr. Farrer's affiliation of Orm's wife, Emma, to the first Albert Grelley is, therefore, attended with serious difficulties, and until these are removed we cannot be said to have convincing proof of the latter's tenure of the barony of Manchester.

Thomas of Monmouth's story is one of several pieces of evidence which show that down to the middle of the 12th century, and perhaps later, the Grelleys lived on their estates in Lincolnshire and Norfolk. Their Lancashire lands were apparently as yet of inferior importance.

2. ROBERT I. *fl.* c. 1115—1154. Charters prove him to have been son of Albert I. As already stated, he appears in the Lindsey Survey (1115—1118) holding land in Goltho, near Wragby, and Nettleton, near Caistor in

1. Thomas seems indeed to place the incident as late as 1154. In that case both Albert and his son must have become fathers at a very tender age, for his grandson, Robert II. (*infra*, p. 137) was born in 1174!

2. *Lanc. Pipe Rolls*, p. 311.

3. William of Newburgh (R.S.), p. 108.

chief of the King.[1] These estates had belonged in 1086 to Erneis de Buron, who perhaps forfeited them with his other lands during the baronial rebellion of 1102 or that of 1106. Apparently Robert did not long retain them. For towards the end of his reign Henry I. granted to Randle "Gernons," earl of Chester, "all the land whatsoever which belonged to Ernisius de Buron, except that I gave to Count Alan (of Brittany) of the same fief in Eborascira (Yorkshire).[2] Neither Goltho nor Nettleton occurs among the Lincolnshire estates of the Grelleys in the 13th century as recorded in the *Testa de Nevill.*

Robert Grelley succeeded to his father's lands before 1127, when he appears as a witness[3] to the charter founding Furness Abbey granted by Stephen, Count of Boulogne and Mortain, upon whom his uncle, Henry I., had conferred the honour of Count Roger the Poitevin. Three years later the Pipe Roll of 31 Henry I., shows Robert engaged in two law suits, one apparently in Nottinghamshire and the other in Lincolnshire. His opponent in the first was Serlo de Burgh, the builder of Knaresborough Castle, whose nephew and heir, Eustace son of John, was afterwards brother-in-law of Robert's son Albert.[4] In Lincolnshire he was in litigation with his superior lord, Count Stephen of Mortain. He had agreed to pay the King £13. 6s. 8d. for his assistance in his suit, in addition to which the King demanded the large sum of forty pounds for the agreement *(conventio)*, which had apparently closed the proceedings.[5]

That Robert was in possession of the manor of Manchester

1. *Supra*, p. 125.

2. A. S. Ellis, *Yorkshire Tenants in Domesday Book*, pt. iii. p. 32. Incidentally this shows that G. E. C. (*Complete Peerage*, vi. 343) is mistaken in giving 1093 as the date of Alan Niger's death.

3. Farrer, *Lanc. Pipe Rolls*, p. 302.

4. Pipe Roll, 31 Hen. I., ed. Hunter, p. 31: Ormerod, *Hist. of Cheshire*, i. 691.

5. *Pipe Roll*, p. 114.

there is no doubt. For certainty on this point we are beholden, as for so much else bearing on local history, to a monastic chartulary. Robert founded a Cistercian abbey on his Lincolnshire manor of Swineshead in a situation characteristic of the locality, "within the willows amidst the fen." The register of Furness Abbey, of which it was a daughter house, puts the foundation in 1148, but the Annals of Peterborough and a Louth Park manuscript quoted by Tanner throw it back to 1134.[1] However this may be, the mill at Manchester is enumerated among the endowments of Swineshead Abbey, which included all Grelley's land at Cotgrave in Nottinghamshire, with a moiety of the church there and land at Hainton and Bloxholme in Lincolnshire.[2] Another religious house in the same county was probably of his foundation, the Gilbertine Priory of Sixhill, near Market Rasen. His son's brother-in-law, Eustace, son of John, was a great benefactor to this order of Sempringham, founding two houses of the order at Watton and Malton, in Yorkshire, in 1150.[3] Robert Grelley died after October, 1154, for he witnessed a charter of William, Count of Boulogne and Mortain and Earl of Warenne, made after the death of King Stephen, William's father, and probably before August, 1158, when the earl went abroad where he died in October, 1159.[4]

Grelley had a daughter, Amabil, who married Geoffrey Tregoz (he died in or before 1175), of Tolleshunt Tregoz, in Essex. She was still alive in 1185.[5]

1. Tanner, *Notitia Monastica*, Linc. lxxv.

2. *Monasticon Anglicanum*, v. 337.

3. *Ibid.* vi. 964; Rose Graham, *St. Gilbert of Sempringham* (1901), pp. 35-7; Tanner, *op. cit.* Linc. lxvi.

4. *Lanc. Pipe Rolls*, p. 306.

5. Dugdale, *Baronage*, i. 615; *Grimaldi, Rotuli de Dominabus*, p. 41; cf. *Testa de Nevill*, vol. i. fol. 2. See Addenda, p. 202.

3. ALBERT II. *fl. c.* 1160. Albert succeeded his father at some date after 25th October, 1154, probably not long after as Robert must have been an old man and certainly before 1165 at the very latest. The new baron's tenure of the estates was short, though the precise date of his death is difficult to fix, as his son bore the same name as himself. It is not possible to say, for instance, which of them was the Aubert Gresli who was one of the witnesses of Henry II.'s confirmation at Woodstock of an agreement between the monks of Furness Abbey and William de Lancaster, baron of Kendal, as to the division of Furness Fells.[1] The date of this confirmation is itself matter of dispute. Eyton[2] placed it in 1157, but that is impossible since another witness was John, constable of Chester, whose father, Richard, son of Eustace, had become constable in that year on the death of Eustace, son of John. It is ascribed with more probability by Mr. Farrer to 1163, but an endorsement which seems to have escaped his attention raises the question whether the true date may not be the 11th year of Henry, *i.e.*, 1165.[3] In the latter months of this year Henry was certainly a good deal at Woodstock, and there is evidence that the two northern bishops and the chaplain Stephen, who witnessed the Furness document, were with the king at this period.[4] If the Albert Grelley who witnessed it was Albert II., he did not long survive, for he seems to have been dead before 1170.[5] The Abbey of Swineshead regarded him as its second founder.[6]

1. Farrer, *Pipe Rolls*, p. 311.

2. *Itinerary of Henry II.* p. 30.

3. "Henrici Regis Junioris de inter monacos de Furneis et Willelmum de Lonocastria, xi." Henry II. is here called *junior* to distinguish him from Henry I., who elsewhere appears as Henricus Senior (Eyton, *op. cit.*, p. 170).

4. Eyton, *op. cit.*, pp. 87-8.

5. *Monast. Anglican.*, v. 337. Mr. Farrer, by confusing him with Albert Bussel, makes him die about 1162 (*Lanc. Pipe Rolls*, pp. 15, 313).

6. *Mon. Angl.*, u. s.

In the *Testa de Nevill* he is called "Old Albert" (Albertus *senex* or *senior*) to distinguish him from his son. Various alienations of land by him in Manchester, Flixton, and other manors are there enumerated.[1]

Albert married well. His wife was Matilda, younger daughter and co-heiress of William, son of Nigel, of Halton, constable of Chester, who died in 1133. Her elder sister, Agnes (the names are by some writers reversed) married the powerful Eustace, son of John, lord of Knaresborough, and (through his first wife) of Alnwick and Malton, who in her right became constable of Chester and died in 1157 fighting against the Welsh.[2]

The following lands subsequently held by the Grelleys "as of the castle of Halton" or "de Constabularia de Cestria" represent the share of her father's fief which Matilda brought to her husband:—

Lancashire: Cuerdley.[3] It was held as $\frac{1}{8}$ of a knight's fee.

Oxfordshire: Pirton.[4] This manor from which, in the 13th century the service of $4\frac{1}{2}$ knights was due had belonged before the Conquest to Archbishop Stigand. In 1086 William [son of Nigel] held it of Hugh, earl of Chester.[5]

Cheshire: Daresbury. A charter of Albert Grelley III.[6] confirms those gifts of his grandfather William, son of Nigel, and his uncle William, to Norton Priory, which are in his fee, viz., Pirton church in Oxfordshire and Daresbury chapel appendant to Runcorn

1. Vol. ii. fol. 822-3. Cf. *supra*, p. 127.

2. *Mon. Angl.*, v. 647 (Kirkstall Register, where Albert's wife is called Agneta de Gaunt); Ormerod, *op. cit.*, i. 691.

3. Part of the Widnes fee of the constable (Harland, *Mamecestre*, pp. 134, 361). Childwall is often included in the dowry of Matilda (*Ibid*, p. 36), but it did not belong to the constabulary of Chester. It was one of the twelve fees which the Grelleys held of the honour of Lancaster (*ibid.* pp. 137, 287, 379, cf. p. 462).

4. *Testa de Nevill*, vol. i. fol. 452, 471; Ormerod, *op. cit.*, i. 732.

5. D. B. i. 157.

6. Ormerod, *loc. cit.*

church. Daresbury is well known to have belonged to the honour of Halton, but this seems the only record of the Grelley tenancy.

Lincolnshire: Barnetby le Wold.[1] In the 13th century reckoned as ¾ of a knight's fee.

Somerby.[2] This formed $^1/_{20}$ of a knight's fee.

Bigby. This was reckoned as ½ a knight's fee. All three are near Glanford Bridge in Yarborough Wapentake.[3]

The question whether it was this Albert's daughter who married Orm, son of Ailward, and had as her marriage portion Dalton, Parbold and Wrightington, and Ashton-under-Lyne, has been discussed above.[4]

4. ALBERT III. *fl. c.* 1170—*c.* 1182. He succeeded his father before 1170[5] and is called "Young Albert" (Albertus *Juvenis* or *Junior*) in the "Testa de Nevill," which records tenancies created by him in Rumworth and Lostock, Little Lever, Heaton and elsewhere. In his grant of two carucates of land in Heaton to William "the Northerner" or "the Norseman" (Noreus) we may see the origin of our local name Heaton *Norris*. He is said to have confirmed in 1166 the gifts of his father and grandfather to Swineshead Abbey[6] But I cannot trace the authority for this statement. He was dead by 1182.[7]

1. *Testa de Nevill*, vol. ii. fo. 425. Albert's grandson had a dispute with the head of the neighbouring Gilbertine priory of Newstead on Ancholme, founded by Henry II. in 1171, over the right to present to the church of Barnetby (*Rot. Cur. Regis Ricardi i.*, Pipe Roll Soc., xxiv. 226).

2. *Testa de Nevill*, vol. ii. fo. 425.

3. To the estates enumerated above as Matilda's share of her brother's lands, Mr. Farrer adds the manor of Woodhead in Rutland.

4. *Supra*, p. 127.

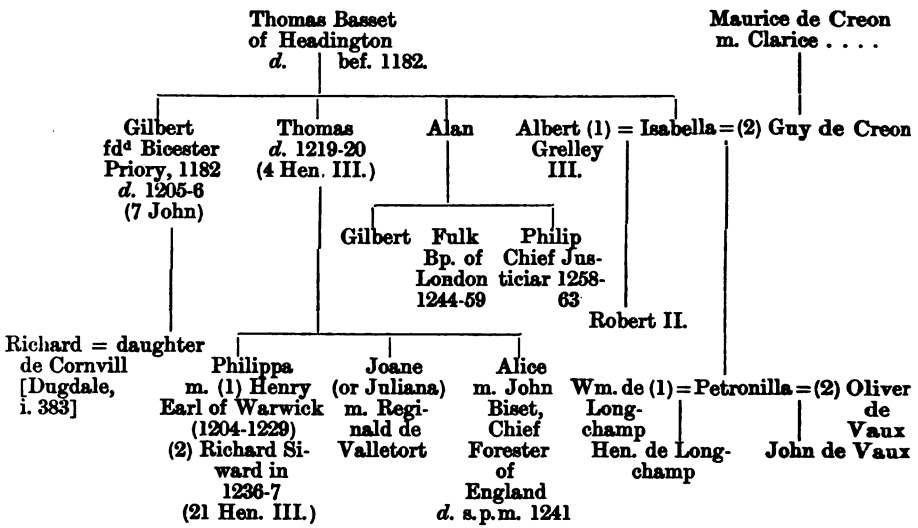
5. *Mon. Angl.* v. 337.

6. Baines, *op. cit.* ii. 28.

7. *Pipe Roll*, 28 Henry II. *Linc.* Mr. Farrer erroneously places his death in 1188-9 (*Final Concords*, i. 162).

"Young" Albert had married (perhaps in 1173) a daughter of Thomas Basset (*d.* before 1182), lord of Headington, close to Oxford, a member of a great legal family of the 12th century, and himself one of Henry II.'s ablest justices. She survived him, for in 1182 Guy de Creon, of Frieston, near Boston, a Lincolnshire neighbour of the Grelleys, obtained the royal license to marry his widow.[1] Dugdale wrongly states that it was his father Maurice who took her to wife.[2] Guy had livery of his lands in 1188.[3]

The following pedigree will explain the relationships created by Albert's marriage, in which we may see a result of his father's acquisition of an Oxfordshire estate.


Thomas Basset of Headington d. bef. 1182.
Maurice de Creon m. Clarice . . . .
Gilbert fd[d] Bicester Priory, 1182 d. 1205-6 (7 John)
Thomas d. 1219-20 (4 Hen. III.)
Alan
Albert (1) Grelley III.
Isabella
(2) Guy de Creon
Gilbert
Fulk Bp. of London 1244-59
Philip Chief Justiciar 1258-63
Robert II.
Richard de Cornvill [Dugdale, i. 383]
= daughter
Philippa m. (1) Henry Earl of Warwick (1204-1229) (2) Richard Siward in 1236-7 (21 Hen. III.)
Joane (or Juliana) m. Reginald de Valletort
Alice m. John Biset, Chief Forester of England d. s.p.m. 1241
Wm. de Longchamp
(1)
Hen. de Longchamp
Petronilla
(2) Oliver de Vaux
John de Vaux

1. Harland, *op. cit.* p. 36; *Pipe Roll*, 28 Henry II. u. s.; Grimaldi, *Rotuli de Dominabus*, p. 7. The Creons were the largest holders in Lincolnshire in 1086, next to Count Alan of Brittany.

2. *Baronage*, i. 412.

3. *Ibid.*

The importance of the Grelleys was much advanced by the marriages of Albert II. and Albert III. The latter's son and grandson played a prominent part in the constitutional crisis of the 13th century.

5. Robert II. *b. c.* 1174, *d.* 1230. Albert's son and heir was a minor at his father's death. In a record of 1185 he is said to be eleven years of age.[1] According to Harland his mother and his uncle, Gilbert Basset, acted as his guardians.[2] But in 1191 Gilbert and his brothers, Alan and Thomas, accounted for 550 marks "for custody of the son of Albert Gresle with his heir *(sic)* and land,"[3] The sum seems a large one, and it is possible that Richard had made a new bargain over this rich ward when raising the wind for his crusade. There is reason to suppose that his chancellor, William de Longchamp, who governed the kingdom during the first two years of his absence, disposed of young Grelley's hand to his brother, Henry de Longchamp. At all events Robert married the regent's niece.[4]

After coming of age he took part in Richard and John's Norman campaigns.[5] In or before 1205 he turned out a tenant at Willisham, in Suffolk, to provide for one of his sisters who was marrying. The evicted one, however, recovered the land by assize of novel disseisin, and Grelley was fined £40. This was ultimately remitted.[6]

Grelley was one of the northern barons who were so

1. Grimaldi, *Rotuli de Dominabus*, p. 33.

2. Harland, *Mamecestre*, p. 37.

3. Baines, ii. 27, from *Rot. Pip.*, 2 Ric. I., *Lanc. (? Linc)*

4. *Testa de Nevill*, p. 295. William de Longchamp who married Robert's half-sister Petronilla de Creon, was of a different family.

5. *Liber Rubeus* (Rolls Series), pp. 114, 119, 124, 159.

6. Farrer, *Lancashire Pipe Rolls*, pp. 203, 207.

prominent in extorting Magna Carta from John.[1] In the short interval before he repudiated his concessions the King ordered (21st June) the sheriff of Nottingham to give Grelley full seisin of Bilsthorpe (near Ollerton) if his claim that it belonged to his fee were correct, and bestowed on him the right of taking six fallow deer in the royal forest of Clive.[2] After throwing down the gage to the barons, however, John gave (10th December) Grelley's Oxfordshire manor of Pirton to Ralph Gernun,[3] and granted the "*castrum* of Robert Greslet, of Mamecestre" and all his lands "infra Lymam" (*i.e.*, in Lancashire) to Adam de Yeland[4] (Eland), who was John's representative in the county until he entrusted it in January, 1216, to his faithful adherent Randle de Blundeville, earl of Chester. Grelley for some reason received letters of safeguard from 1st January in this year. His Lincolnshire estates seem also to have been placed for a time in Adam of Yeland's hands, but on John's death they were transferred by the new government on 13th June, 1217, shortly after the battle of Lincoln, to the Regent's eldest son, William Marshal, who had recently deserted the side on which Grelley was still fighting.[5] But Marshal probably received an exchange elsewhere, for a fortnight later the whole of Grelley's lands were granted to Hugh de Vivonne for his support in the King's service.[6] Hugh was a Poitevin, an early instance of the favour enjoyed by his countrymen in this reign. He was seneschal of

1. Matthew Paris (*Hist. Maj.* (Rolls Series), ii. 585), enumerates him among the 'principes presumptionis et incentores' who met at Stamford.

2. *Rot. Claus.* (Record Commission), i. 215.

3. *Ibid.* i. 241.

4. *Rot. Pat.* (Rec. Comm.), i. 165; *List of Sheriffs*, p. 92. *Castrum* here probably does not mean a castle in the ordinary sense with a keep, of which there is no trace at Manchester, but is used in the older sense in which it was applied to any fortified enclosure.

5. *Rot. Claus.* i. 274, 311; cf. *Rot. Pat.* i. 162-9.

6. *Rot. Claus.* i. 311.

Gascony in 1221 and 1233,[1] and sheriff of Somerset in 1240. On the general pacification Grelley's Oxfordshire lands (and no doubt the others, too), were restored to him.[2]

Once more able to serve the crown Grelley gave his assistance against the feudalists, helping to wrest Newark Castle from Ralph de Gaugi in 1218, Bytham Castle from William of Aumâle in 1221, and Bedford from Falkes de Breauté in 1224.[3] He witnessed the reissue of the Great Charter in 1225, and was one of the two justiciars appointed to carry out the perambulation of the forests in Lancashire.[4] We do not find Grelley himself accused of anything worse than retaining land disafforested by the charter[5] and packing a jury. In a suit which he and the abbot of Swineshead brought two years after the siege of Bedford to recover some land in the neighbourhood of the abbey, the defendant complained that the plaintiffs had chosen jurors from distant parts and ignorant of the customs of the district. Whereupon the sheriff was ordered to select jurors acquainted with the usages of "the marsh."[6] Next year the King granted to Grelley (19 August, 1227) the valuable privilege of holding fairs at Manchester and Swineshead on the eve, day, and morrow of St. Matthew.[7] He took part in the unfortunate expedition to Poitou in the summer of 1230, and like many another contracted a mortal disease of which he died shortly after his return and before 20th December, apparently in his 57th year. The historian describes him as "vir nobilis et potens."[8]

1. *Rôles Gascons*, i. *Suppl.* p. 121.
2. 30 Oct., 1217.—*Rot. Claus.* i. 337.
3. *Ibid.* i. 447, 475, 606.
4. *Ann. de Burton*, i. 232; *Cal. Rot. Pat.*, 1216-25, p. 570.
5. In Heaton and Anderton. He was rebuked by royal letter (*Ibid.* p. 576).
6. *Rot. Claus.* ii. 124.
7. *Ibid.* ii. 197; Harland, *Mamecestre*, p. 47. In the case of Manchester this replaced a temporary grant of a two days' fair made in Aug., 1222, for the King's minority, for which Grelley had given a palfrey (*ib.* p. 46).
8. *Excerpta e Rot. Fin.* i. 173; Matth. Paris, *Hist. Angl.* (Rolls Series), ii. 328.

It has already been mentioned that Grelley married a daughter of Henry de Longchamp, brother of Richard I.'s famous chancellor. Her name was Margaret.[1] She brought her husband a Suffolk estate, Weston and the soke of Werlingham, which the chancellor had purchased from William Lovel and given to his brother.[2]

6. Thomas I. *d.* 1262. He was of full age at his father's death.[3] In May, 1242, Grelley went down to Portsmouth and paid 100 marks to be excused from accompanying the king on the campaign for the recovery of Saintonge, but he went out soon after and may have been at the rout of Taillebourg.[4] The 100 marks were repaid, he was allowed the same sum for his passage, and excused debts amounting to £70, the greater part of which he owed to a creditor with the significant name Aaron of York.[5] This and the subsequent royal grant (23rd July, 1249), of right of free warren in his demesne lands at Manchester and Willisham[6] point to some degree of court favour in the early years of Henry's personal rule. But as the burdens which the king's reckless incompetence laid upon the nation, and especially upon the tax-paying landowners, grew heavier and heavier Grelley, like his father, ranged himself in the ranks of the baronial opposition. In the great crisis of 1258 he took a prominent part. For he was included not only among the twenty-four commissioners appointed under the Provisions of Oxford to arrange for the raising of an aid, but among the twelve who "for economy's sake" were to represent the "community of the land" (which in practice

1. *Cal. Rot. Pat.* 1216-25, p. 65.
2. *Testa de Nevill*, p..295.
3. *Exc. e Rot. Fin.* i. 209.
4. *Rôles Gascons*, Nos. 1013, 1556.
5. *Ibid.* Nos. 1365, 1460, 1556.
6. Harland, *op. cit.*, p. 90.

meant the barons) in the little coterie of 27 members which was henceforth to constitute the parliament of the realm.[1] He was also appointed justice of the royal forests south of Trent.[2] Grelley did not live to see the humiliation of his party, due largely to its narrowly oligarchic spirit; he died early in 1262[3] just at the moment when a short truce had been arranged between the warring parties.

He had married twice. By his first wife, whose name is unknown, he had two sons. His second wife was Christiana, widow of Gerard de Furnival and previously of Henry de Braybrook, a Northamptonshire baron who had been active in the opposition to King John,[4] and daughter and heir of Wischard Ledet (*d.* 1221), a fellow tenant-in-chief in Oxfordshire and by marriage lord of the honour of West Warden, near Banbury, the lands of which lay partly in Northamptonshire, partly in Lincolnshire, where the Grelleys, too, it will be remembered, had a great estate.[5] Her second marriage probably occurred shortly after June, 1234, when she paid sixty marks for the royal permission to select a new husband to please herself.[6] She married Grelley after 1242 and survived him nine years, dying in 1271.[7] Her elder son by her first husband took her name, and her estates were ultimately divided between his two granddaughters, Alice and Christiana, who married two brothers, William and John le Latimer; the elder was ancestor of the barons Latimer, the last of whom in the male line won an unenviable notoriety in the concluding years of Edward

1. Stubbs, *Select Charters*, p. 390; *Annales Monastici* (Rolls Series), i. 449-50.

2. *Cal. Rot. Pat.* (Rec. Comm.), p. 31. He was instructed by the Provisions of Westminster of 1259 to hold an enquiry into the state of the forests within his jurisdiction (*Ann. Mon.* i. 478).

3. *Exc. e Rot. Fin.* ii. 367.

4. Dugdale, *Baronage*, i. 728, 736.

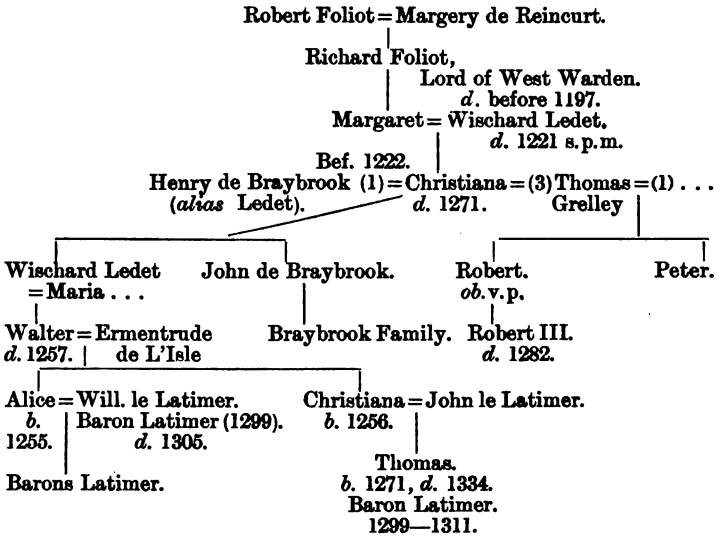
5. *Testa de Nevill*, pp. 245, 325.

6. *Exc. e Rot. Fin.*, i. 258.

7. *Ibid.* ii. 548; *Testa de Nevill*, vol. ii. fo. 154.

III.'s reign, when he was impeached by the Good Parliament, and handed on his barony with his daughter to a younger branch of the great house of Nevill.

As Harland confuses the elder Christiana with her great-granddaughter,[1] the following pedigree may be useful.



7. Robert III. *b. circa* 1254, *d.* 1282. The death of Thomas Grelley had consequences which draw our attention to one of the problems of the early law of descent in England. The elder of his two sons Robert and Peter predeceased him, leaving an infant son, also called Robert, who was about eight years old when his grandfather died. The preference of the nephew to the uncle in such a case, was a principle only recently established. The observance

1. *Mamecestre*, p. 100. Braybrook too is disguised as Maybrook.

of the older usage in the case of king John had delayed for a time the triumph of the principle of representation.[1] It would seem, indeed, that Thomas Grelley had endeavoured to override the new rule in favour of his younger son by an alienation of his Lancashire estates. On his death Peter Grelley claimed the manor of Manchester, but the crown did not mean to allow its profits of wardship to be thus reduced, and the royal officers took possession of the manor on the ground that Thomas Grelley "had not enfeoffed Peter Grelley, his son, of the manor of Manchester at such a time and in such a manner as to give him a free tenement therein."[2] Peter granted Pirton the Oxfordshire manor of the family for life to his kinsman, Sir Philip Basset,[3] the chief justiciar of England, if it should devolve upon him by the death of his nephew, but this condition was never fulfilled,[4] and his nephew remained in possession of Pirton.

The uncle, however, received some solatium for his disappointment in the custody of the church of Manchester during the minority of Robert, and the latter afterwards gave him the Lincolnshire manor of Bloxholme at the nominal rent of a clove gilly-flower.[5]

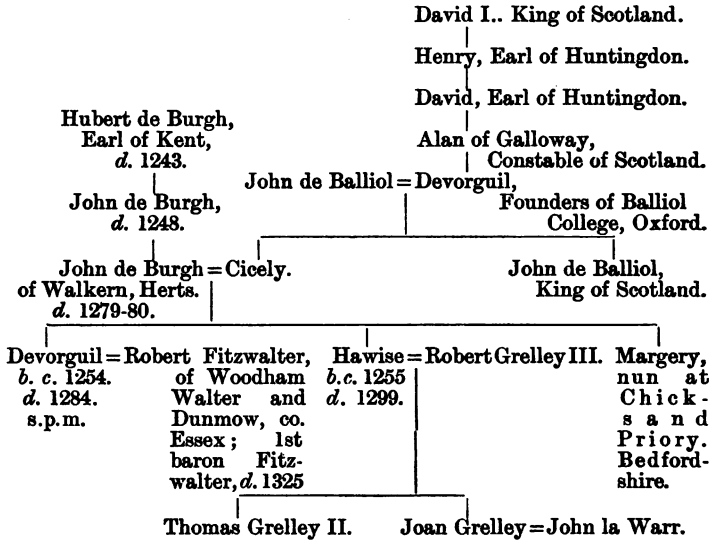
Henry III. transferred his rights of wardship over the young heir to his second son Edmund, who, in 1267, had a grant of the honour and county of Lancaster, and became the first earl of Lancaster.

Robert Grelley's tenure of his inheritance was short. He came of age in 1275, was summoned to parliament as

1. Pollock and Maitland, *Hist. of English Law*, ii. 285.
2. *Rot. Fin.* ii. 372.
3. See pedigree, *supra*. p. 136.
4. *Abbreviatio Placitorum*, p. 172.
5. *Cal. Rot. Claus.* 1270-88, p. 252.

a baron, and in 1277 fought in the Welsh war with a following of three *servientes* or troopers. He died on 15th February, 1282.[1] Before 1280 he had married Hawise, the younger of the two co-heiresses of John de Burgh, grandson of the famous Hubert de Burgh, and niece of John de Balliol, afterwards King of Scots.[2] Her share of her father's estate included the Northamptonshire manor of Wakerley, near Peterborough, and that of Portslade, in Sussex, close to Brighton.[3]

The following pedigree shows that royal blood ran in the veins of the last male Grelley in the direct line:—


David I.. King of Scotland.
Henry, Earl of Huntingdon.
David, Earl of Huntingdon.
Hubert de Burgh, Earl of Kent, d. 1243.
Alan of Galloway, Constable of Scotland.
John de Balliol = Devorguil, Founders of Balliol College, Oxford.
John de Burgh, d. 1248.
John de Burgh of Walkern, Herts. d. 1279-80. = Cicely.
John de Balliol, King of Scotland.
Devorguil b. c. 1254. d. 1284. s.p.m.
Robert Fitzwalter, of Woodham Walter and Dunmow, co. Essex; 1st baron Fitzwalter, d. 1325
Hawise b. c. 1255 d. 1299. = Robert Grelley III.
Margery, nun at Chicksand Priory. Bedfordshire.
Thomas Grelley II.
Joan Grelley = John la Warr.

1. Harland, *Mamecestre*, p. 136.

2. The King had granted the disposal of his hand to Balliol immediately after his grandfather's death (*Cal. Rot. Pat.*, 46 Hen. III., pt. I. m. 15), but this was to have provided for one of Balliol's own daughters.

3. *Cal. Rot. Claus.*, 1279-80, p. 186; cf. *Cal. Genealog.*, pp. 293, 350.

8. THOMAS II. *b.* 9 August, 1279,[1] *d. c.* 1311 (?). Thomas Grelley was only three years old at his father's death, and Edward I. gave the guardianship of this valuable ward to his kinsman, Amadeo of Savoy.[2] Three years after Amadeo became Count of Savoy and the custody of the Grelley estates reverted to the king. Edward bestowed the rich rectory of Manchester upon his not very spiritually-minded minister, Walter de Langton. When Langton resigned it on becoming bishop of Lichfield in 1296 it was given to a Gascon clerk of the king, William Seguin del Got,[3] who was succeeded in 1299 by Otto de Grandison, a connection probably of Edward's Savoyard Justiciar of North Wales.[4] Grelley came of age in the following year, and was at once called upon to perform military service against the Scots. During his minority the king had given to Joan, wife of John Wake, the right of marrying his ward to one of the sisters of her husband,[5] but nothing seems to have come of this, and he remained unmarried.

In May, 1301, Grelley granted a charter to his burgesses at Manchester.[6] He was one of the three hundred noble youths knighted with the king's eldest son at Westminster on Whitsunday, 1306, before the setting out of Edward's last expedition against Scotland. He was summoned to parliament as a baron from 1308 to 1311, in the latter half of which year, or, at all events, before August of the next, he died.[7]

Grelley had disposed of some of his property in his

1. *Calendarium Genealogicum*, p. 569.
2. *Cal. Rot. Pat.*, 1281-92, p. 24.
3. *Ibid*, 1292-1301, p. 190; cf. Delpit, *Docs. Français en Angleterre*, p. 119.
4. *Cal. Rot. Pat.*, 1292-1301, p. 440; Tout, *Edward I.*, p. 55, 80.
5. *Cal. Rot. Pat.*, 1281-92, p. 445.
6. Printed *supra*, ch. iii.
7. *Abbrev. Rot. Orig.*, i. 183. But an entry on the close rolls (*Cal. Rot. Claus.*, 1307—1313, p. 584), *seems* to imply that he was still alive in June, 1313.

lifetime. He was unmarried, and in the absence of issue of his body his sister, Joan, would be his heir. But he was not legally precluded from alienating part or all his estates to others if he chose. *Nemo est heres viventis* was a recognised principle, and he took advantage of his right. At some date prior to November, 1304, he parted with his Suffolk manor of Willisham, which had been in the family for over two centuries, to one William de la More.[1] Before the death of Edward I., Grelley had also sold the manor of Pirton in Oxfordshire for the large sum of £7,000.[2] The purchaser was John de Guise, of Apsley (Guise), in Bedfordshire, and Elmore, near Gloucester, which is still held by his descendants.[3] Guise's father had obtained both these manors from the Burghs,[4] and this supplies a connection with Grelley, whose mother was one of the co-heiresses of that family. A record of the first year of Edward II. points to an attempt on Guise's part to acquire, not only Pirton, but six other Grelley manors, Manchester itself, Swineshead and Sixhill in Lincolnshire, Woodhead in Rutland, Wakerley in Northamptonshire, and Kingston (a Burgh estate) in Somerset.[5] This seems to have stirred up Grelley's brother-in-law, John la Warr, who, by a deed dated at Wickwar, 17th March, 1309, got him to transfer to his sister, her husband, and his heirs the manor of Manchester in consideration of an annuity of 100 marks for the rest of his life.[6] Now, too, or a little earlier, Grelley sold Wakerley to his brother-in-law for £4,000. As they had omitted to obtain the royal licence for this alienation of

1. *Cal. Rot. Pat.*, 1301-7, p. 267.
2. *Cal. Rot. Claus.*, 1307-13, p. 65; *Cal. Rot. Pat.*, 1307-13, p. 68.
3. Murray's *Handbook to Gloucestershire*, p. 59.
4. *Ibid*; *Feudal Aids*, I. 1.
5. *Cal. Inquis. ad Quod Damnum* (Record Commission), p. 220.
6. Harland, *op. cit.*, pp. 248-250.

land held in chief of the crown the grantee was fined in 1310. He was allowed to leave Grelley in possession of the manor for the term of his life.[1]

Pirton was the only estate of those coveted by Guise, which was lost to Grelley's heirs.[2] But Guise himself did not reap much advantage from his purchase. Grelley, to whom he had regranted it for the term of his life, parted with his interest in it, probably under pressure from the crown, to the elder Hugh le Despenser, on whose fall it was taken into the royal hands with his other forfeited estates. Early in the reign of Edward III. Guise presented a petition in parliament for its restoration. Enquiry was ordered but the result does not appear.[3]

1. *Cal. Rot. Pat.*, 1307-13, p. 287. It was very likely this transaction which had led to litigation in 1309 between Grelley and Guise, who at that time was in prison for homicide (*Abbrev. Placitorum* (Record Comm.), p. 309).

2. *Cal. Inquis. post mortem* (Record Comm.), II., 136.

3. *Rot. Parl.*, II., 406.

Beginnings of Lancashire.

Beginnings of Lancashire.

Chapter I.

The Honour and County of Lancaster.

When Domesday Book was drawn up the north-western corner of England, between the Mersey and the Solway, was still imperfectly incorporated with the kingdom which the duke of Normandy had taken over. It was not yet divided into shires. In the extreme north Cumberland, a district of which Carlisle was the centre, but which included on one side more and on another less than the later county of that name, followed in 1086 the fortunes of Scotland. It was ruled now or very soon after by a magnate, Dilfun (Dolphinus), son of Gospatrick, whose mixed birth—his grandfather being a Scot of pure descent who married a grand-daughter of king Ethelred II.—bespeaks the character of this land as a debatable ground between Scotland and England.[1] At this moment Scottish influence seems to have been predominant, and the territory which now forms the northern halves of the counties of Cumberland and Westmorland was accordingly excluded from the Conqueror's survey.

The rest of the region between Mersey and Solway, an old conquest of Northumbria, does not take up much space in that notable record. It was a rugged, poor, and

1. It was a fragment of a wider Cumberland (Cumbria) which included what is now south-western Scotland. An early writ recently discovered at Lowther Castle (*Scottish Historical Review*, i. 66) seems to show that, at intervals at all events, during the first half of the 11th century the earls of Northumberland exercised authority over this lesser Cumberland. This was apparently the case in the early years of William's reign, when Gospatrick acted as his earl of Northumberland, but he had in 1072 thrown up his earldom and retired to Scotland. His son, Dilfun (cf. p. 203), governed Cumberland as a Scottish vassal.

thinly-peopled land. That part of it which stretched from the territory of Dilfun of Carlisle to the Ribble, and had been attached on the eve of the conquest to the Northumbrian earldom of Tostig, whence it was surveyed with Yorkshire in 1086, contained much land that was lying waste, in addition to the barren Lake District.[1] It included the southern halves of the later shires of Cumberland and Westmorland, the northern half of the later shire of Lancaster, and what afterwards became the Yorkshire wapentake of Ewecross. Its vills or townships were nearly all grouped round a few head manors, Preston, Halton, Whittington, Beetham, Austwick, Bentham, Strickland, and "Hougun."[2] The 61 vills which "lay in" Preston covered an area virtually co-extensive with the later Lancashire wapentake, or hundred of Amounderness, and the 21 attached to Halton were all afterwards placed in the hundred of Lonsdale, but all the other groups cut across the subsequent shire boundaries. Of the 15 vills "lying in" Whittington, for instance, 8[3] are now in Lancashire, 4 in Yorkshire and 3 in Westmorland.

Richer and more populous was the land between Ribble and Mersey ("Inter Ripam et Mersham"), which had been wrested from Northumbria and annexed to Mercia in the second quarter of the 10th century. In the course of the hundred and sixty years or so which had since elapsed its connection with the more settled midlands had borne some fruit. But the hundreds in which, unlike the lands to the north of it, the district was already divided with the same

1. D.B., i. 301 *b*.

2. "Hougun" was the manorial centre of a district comprising Furness, a few sub-manors between the rivers Duddon and Esk, and possibly one or two in Cartmel. The head manor and one of its sub-manors, "Hougenai," are usually connected with Walney Island, the older form of whose name was Wagheney (Wagneis). But Mr. Farrer (*Trans. Lanc. & Chesh. Antiq. Soc.*, xviii. 97) argues for an identification with Millom, now in Cumberland. The question can hardly be regarded as settled.

3. Whittington itself makes a ninth.

boundaries, allowing for the subsequent absorption of Newton and Warrington hundreds in that of West Derby, as they have to-day, were still treated as great manors, like the groups of vills we have found prevailing north of the Ribble. This remote and backward land had few attractions for Norman settlers; only some twenty knights had been enfeoffed there by 1086, and the numerous thegns, drengs, and radmen who remained undisturbed were bound to render assistance in the cultivation of the demesne of their hundredal manor, the repair of its hall and the like. The annual value of the whole district was estimated at under £150, while, to take only one or two instances for comparison, Essex was worth £4,874, Leicestershire £736, and even Derbyshire £461. The clumsy designation under which it appears in Domesday, and which clung to it down to the 13th century, indicates its imperfect incorporation in the administrative system of the kingdom. "Between Ribble and Mersey" was not itself a fully organised shire, neither was it an integral part of a shire. If the shire moot, which the thegns of West Derby Hundred were obliged to attend in King Edward's day,[1] was not the county court of Cheshire we must conclude that a shire court could be held for an area which had not become an independent shire.

Its association with Cheshire in Domesday Book was certainly not arbitrary, though their connection may have ceased to be very intimate. It is possible that a lump assessment for geld had been laid upon them jointly and then apportioned between them,[2] and it is probable that the sheriff of Cheshire had been responsible for the

1. D.B., i. 269 *b*.

2. Farrer, *Lanc. Pipe Rolls*, p. x.; Maitland, *Domesday Book and Beyond*, p. 458, The chief difficulty in the way of accepting the suggestion of an original common assessment of the two districts is that while Cheshire was assessed in hides, sub-partitioned on the 5-hide system, "Between Ribble and Mersey" was primarily assessed in carucates sub-partitioned on a duodecimal system. The total, 474 carucates, probably represents an original $480 = 4 \times 120$. Its assessment as 80 hides seems to be due to a wholesale reduction of its liability by five-sixths following perhaps its annexation to Mercia.

collection of the tax in both. The nearest parallel would be the relation of Rutland to Nottinghamshire, whose sheriff collected its geld.[1] Roger the Poitevin, whose first tenure of the district had terminated before the date of Domesday may have had his own sheriff as he certainly had when it was afterwards restored to him.[2] What arrangements were made in the interval during which it was in the hands of the crown it is hard to say. The sheriff of Cheshire was no longer an officer of the crown, but of earl Hugh, who held the county as a regality or "palatine earldom."

Some of the thegns of West Derby Hundred mentioned in the Domesday survey may very well have been the Englishmen of the same names who had held lands in Cheshire under the Confessor but had been since dispossessed. It is tempting, for instance, to identify Dot, the thegn of Huyton and Torbock with the Dot who was lord of many Cheshire vills in 1066.[3] More certain is the enfeoffment by Roger the Poitevin before 1086 of one of earl Hugh's barons with a large fief in West Derby and Warrington hundreds. William, son of Nigel, the earl of Chester's constable, had received Widnes and a number of other manors on the north shore of the Mersey estuary.[4]

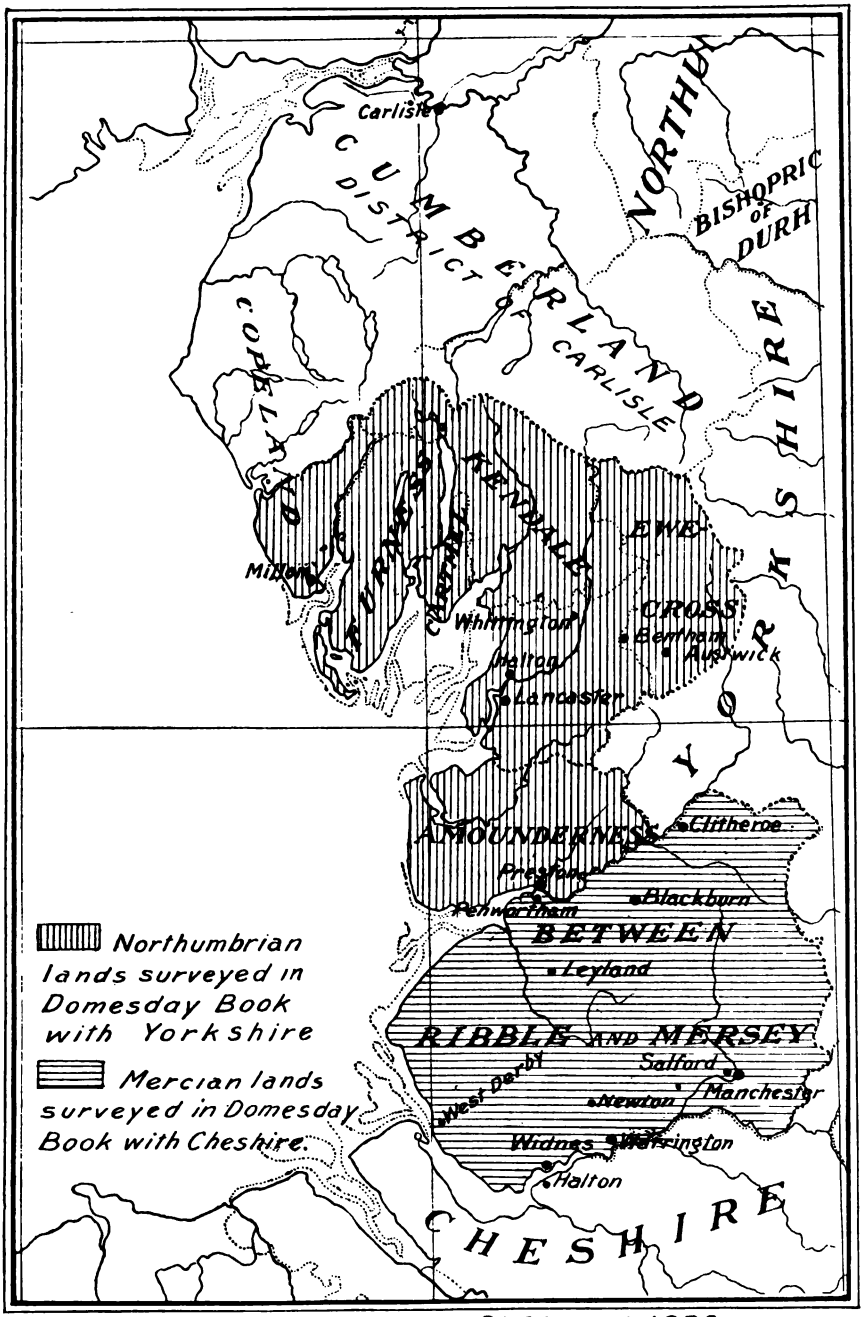
The *caput* of his barony was at Halton, opposite Widnes, so that he held both sides of Runcorn Gap, the gateway to the middle course of the Mersey. It would almost seem as if some joint arrangement for the defence of the river had dictated Roger's grant. As late as 1122, when

1. D.B., i. 293 *b*.

2. The Goisfridus who held land of him before 1086 in West Derby Hundred is no doubt correctly identified with the Godefridus vicecomes Rogeri who, under William Rufus, gave Garston and the church of Walton on the Hill to Shrewsbury Abbey (Farrer, *op. cit.*, p. 269).

3. Wulfric Spot, founder of the Abbey of Burton-on-Trent, who died in 1002, bequeathed in his will lands "Between Ribble and Mersey" and in Wirral (Betwux Ribbel and Maerse and on Wirhalum).—Kemble, *Cod. Dipl.*, vi. 147; Ramsay, *Foundations of England*, i. 357, 374.

4. D.B., i. 269 *b*.



NORTH WESTERN ENGLAND IN 1086.

"Between Ribble and Mersey" was included in a great honour which we can hardly doubt had its own sheriff, Clitheroe and Whalley were actually described in a charter of Hugh de Laval, their lord at that time, as being in Cheshire.[1]

Royal demesne in the days of the Confessor, "Inter Ripam et Mersham" had, as already mentioned, been given by William I. at some date not ascertained, to Roger, third son and namesake of the great Roger of Montgomery, the king's cousin who had led the right wing of the invading army at Hastings and been rewarded with the whole county of Shropshire and the Sussex rapes of Arundel and Chichester. The younger Roger gained his sobriquet of "Pictavensis" or "the Poitevin" by his marriage with Almodis, sister and heiress of Boso III., Count of La Marche in Poitou (d. 1091). His elder brothers Robert of Bellême and Hugh being designated as his father's heirs in Normandy and England he was endowed by the Conqueror with a great English fief of his own, including some 50 manors in Suffolk, upwards of 40 in Lincolnshire, 12 in Nottinghamshire, and wide if rather barren lands in the north-west—in the West Riding of Yorkshire and the rugged and backward region between the Mersey and the Lake District whose condition we have been endeavouring to describe. It is possible, however, as will be seen presently, that he did not hold the whole of this fief at one time. The Conqueror's grant in the last-mentioned quarter did not apparently comprise the whole of the lands which were to make up the later county of Lancaster. Besides "Between Ribble and Mersey" it included the district (afterwards the wapentake) of Amounderness—Preston and its group of sub-manors. Some have assumed that he was also given such portions of the

1. Holmes, *Pontefract* (1878), p. 80, App. iv.

great manors of Halton, Whittington, Austwick, Bentham and "Hougun" which follow the Preston group in the Survey as are now in Lancashire.[1] But this is certainly not stated. On the contrary, Domesday itself is witness that these vast preconquest manors had not yet been broken up, and that the boundaries of North Lancashire had not been drawn before 1086. The only lands north of Amounderness, now in Lancashire, which the record shows to have been in Roger's possession, are entered at the end of the survey of Yorkshire under the heading "Terra Rogerii Pictavensis," along with lands in the West Riding.[2] The lands in question were Ashton, Ellel and Scotsforth, with two carucates in Lunesdale and Cockerham, forming a continuous group on the south side of the estuary of the Lune, and the manor of Yealand, which Roger held as one of a group of six manors,[3] of which Beetham was the head, occupying both sides of the estuary of the Kent, and all except Yealand now, in Westmorland.

If we may take this to be the full extent of the Conqueror's grant to Roger, in the region north of Amounderness, it follows that he did not yet hold Lancaster, which is entered merely as a dependency of the great manor of Halton further up the Lune.[4] One entry in Domesday[5] implies that he had a castle somewhere. This is usually thought to have been at Clitheroe, but there is no direct mention of one there in the record, and it may have been at Penwortham where a castle is stated to have been built between 1066 and 1086.

The two groups of manors on the estuaries of the Lune and Kent, just referred to, were all that Roger actually

1. Farrer, *op. cit.*, p. x.
2. D.B., i. 332.
3. Beetham, Yealand, Farleton, Hincaster, Heversham with Levens and Preston Richard.
4. D.B., i. 301.
5. *Ibid.*, i. 332.

held between the Mersey and the Lakes when Domesday was drawn up, if we exclude his possessions in the West Riding of Yorkshire. His tenure of "Inter Ripam et Mersham" and Amounderness is specially recorded to have determined before that date when they were again in the hands of the crown. It is usually assumed that he had forfeited them in some way, and Mr. Farrer asserts that he had been implicated in the rebellion of the King's eldest son Robert in 1077—80. For several reasons this does not seem likely. It is true that Roger's eldest brother Robert of Bellême was engaged in the rising, but Roger himself is not mentioned, and Robert's supporters would appear to have been exclusively drawn from those who (like Robert of Bellême) had interests in Normandy, where the struggle was fought out. In the second place the rebellion was followed by no forfeitures. And finally, Roger was still holding, in 1086, an extensive fief in Suffolk, Lincolnshire, Nottinghamshire, the West Riding of Yorkshire, and in the lower vallies of the Lune and the Kent. The possibility suggests itself that he may have acquired some part of these estates in exchange for the not very profitable "Between Ribble and Mersey" and Amounderness.[1] William's experience of the dangers of such compact fiefs may have induced him to resume these northern frontier lands[2] and compensate Roger elsewhere.

1. The curious way in which the northern fief retained by Roger is entered in Domesday perhaps points to some readjustment. It was evidently inserted after the Yorkshire returns had been digested under fiefs, for it occupies the *recto* of a separate folio (332) after the "terra tainorum regis," and he does not appear in the index of Yorkshire tenants-in-chief on folio 298 *b*. Had it been overlooked by the royal clerks or did Roger only obtain possession after the returns were made up? Some of these lands are stated to have been previously held by William de Percy and Berengar de Toesny. Barnoldswick *e.g.* by the latter "sed modo est in Castellatu Rog' pictavensis." This incidentally introduces a further difficulty. If Roger had lost Clitheroe and Penwortham and had not, as we have suggested, obtained Lancaster, where was his castle? It should be added that the fief of Robert Bruce entered on the *verso* of the same folio is expressly stated to have been inserted after the survey was drawn up. But unlike the entry of Roger's fief it is in quite a different hand from the rest of the survey.

2. The small number of knights that Roger had enfeoffed there suggests that he had not held these lands very long.

The early years of the next reign saw Roger, who had won the favour of Rufus by a timely desertion of duke Robert's cause in the crisis of 1088, once more in possession of "Between Ribble and Mersey" and Amounderness, and with his fief in the valley of the Lune extended to include the whole of what is now the hundred of Lonsdale South of the Sands. The half dozen great manors which in 1086 filled in the ill-organised territory between Amounderness, Yorkshire and the Scottish fief of Carlisle, were now split up and divided between Roger and Ivo Taillebois, lord of Spalding, in Lincolnshire. In this partition Ivo received what is now the Yorkshire wapentake of Ewecross,[1] the southern half of the present county of Westmorland known henceforward as the barony of Kendal including all but one of the townships Roger had held in 1086 on the shores of the Kent estuary, the southern half of the later county of Cumberland, afterwards known as the barony of Copeland or Egremont, and possibly the intervening districts of Furness and Cartmel. There is at any rate no positive evidence that the last-mentioned were held by Roger. It is true that they are afterwards found in the possession of Stephen of Blois, to whom Henry I. transferred Roger's fief and, so in due season became part of Lancashire, but Henry is thought to have made additions to it in Stephen's favour.[2] With this possible exception[3] the boundaries of Roger's fief now coincided with those of the present county of Lancaster, the foundations of which were thereby laid. At Lancaster Roger fixed the seat of

1. Comprising the present townships of Clapham, Austwick, Horton in Ribblesdale, Ingleton, Dent, Garsdale, Sedbergh, Thornton in Lonsdale, Burton in Lonsdale, and Bentham. The boundary between this Wapentake and the Lancashire Hundred of Lonsdale is drawn with little or no reference to physical features cutting across the vallies of the eastern feeders of the Lune.

2. Farrer, *Lancashire Pipe Rolls*, pp. 9, 29, 373.

3. Practical considerations may, however, have given Furness and Cartmel to Roger rather than to Ivo. Before the days of railways the road across the sands from Lancaster to Cartmel was much the nearest way from the south into the district between the Winster and the Duddon.

his power, and no doubt built the castle. The date of these important territorial changes is not directly recorded, but it was certainly prior to 1094. This is sufficiently established by Roger's charter of that year, granting the church of Lancaster and much else to the abbey of St. Martin at Sées,[1] and his sheriff Godfrey's grant of the churches of Kirkham and Walton-on-the-Hill, with the vill of Garston to Shrewsbury Abbey (1093–4),[2] while the Kendal and Ewecross gifts of Ivo Taillebois to the abbey of St. Mary at York, refounded by the graceless Rufus,[3] cannot be much if any later. Seeking a probable occasion for a feudal settlement which did so much to determine the future administrative boundaries of this part of the kingdom, an occasion which falls within the years 1088—1094, one is naturally tempted to suspect some connection with the reconquest of Carlisle and its district from the Scottish vassal Dilfun, in 1092, which led to king Malcolm's counter invasion of Northumberland in the following year and his death at Alnwick.[4] The land of Carlisle was incorporated with the kingdom of England and governed for some years as royal demesne. The division of the great tract of crown demesne to the south of this territory between two leading Norman barons might have been either a forward movement preparatory to its subjugation, or a part of the settlement by which its conquest was followed. In the former case the castles of Kendal (Kirkby in Kendale) and Lancaster were probably built as outposts against the Scots, in the latter as a second and third line of defence in the rear of Rufus's new castle at Carlisle. Reading between the lines of Roger's charter to St. Martin's at Sées we can see that a large proportion

1. Farrer, *op. cit.*, p. 289.
2. *Ibid.*, p. 269.
3. *Monasticon Anglicanum* (1846), iii. 548-9, 553.
4. Ramsay, *Foundations of England*, ii. 176-7.

of the land "between Ribble and Mersey" had clearly been subinfeudated to tenants bound to military service. But attractive as the suggested connection with the conquest of Carlisle may be, the possibility ought not to be excluded that Roger and Ivo obtained these lands as a reward for loyalty during the rising of 1088, and without any regard to Scottish relations.

Roger is sometimes said to have received his fief as an earldom, and thus to have been the first earl of Lancaster.[1] He certainly acquired the title of Comes between 1088, when he was still plain "Rogerius Pictavensis," and the date of his charter to the monks of Sées and the Shropshire-born chronicler Orderic Vitalis, who gives special attention to the doings of the earl of Shrewsbury and his sons, asserts that Roger's father procured earldoms for him and his younger brother Arnulf, which were taken from them by Henry I.[2]

Orderic, however, must probably not be taken to mean that Roger was given an earldom in the sense in which such were conferred upon his father and Hugh of Chester, an earldom which carried an English title. This, indeed, was unnecessary, for he was "Comes" in right of his wife after her brother's death in 1091. It was not the practice at this date to accumulate these official titles. The title of earl of an English county was reserved by the Conqueror and his sons for those who did not already enjoy the comital dignity by a foreign grant. Thus William's brother Robert, although practically the whole county of Cornwall was included in his vast English estates, was never called earl of Cornwall, but always count of Mortain. It is quite in accordance with

1. Doyle, *Official Baronage*, s.v.

2. "Aliisque quoque duobus filiis suis Rogerio et Arnulfo singulas Comitatus callidus heros in vita sua procuravit, quos post ejus occasum ambobus perfidia, regnante Henrico, confestim abstulit." *Ord. Vit.* (ed. Le Prévost), ii. 422.

precedent, therefore, that Roger does not appear as earl of Lancaster[1] and the fact that all his successors in that fief during the 12th century were earls or counts when they received it is no doubt the reason why the creation of a specific earldom of Lancaster was deferred until the reign of Henry III.[2] On the other hand the nature of the northern fief bestowed upon Count Roger was such that Orderic might excusably describe it as a county (which does not necessarily involve an earl), although it was not yet recognised as such. The continuous territory which he ruled in the north-west and ruled through a sheriff had not indeed the unity of an old shire. It comprised districts which had a distinct history and character of their own, and there was no guarantee that it would not split up again into these component parts, as indeed it did for a time in the days of Stephen. Lancashire was still only in the making, and its emergence as a recognised county was, as will be seen, retarded by the fact that it was only a part of a wider fief extending into counties as far south as Suffolk.[3]

That the future Lancashire, though not strictly a palatine earldom, was a palatinate or regality, seems clear enough. A palatinate (which must not be understood to have been a term in use in England in the 12th century)[4] may be defined as a district in which the crown devolved all or most of the duties and rights of government upon a lord. The devolution was as complete here as in the

1. He is described as "Comes Rogerius qui Pictaviensis (or Pictavensis) dicitur" or "Comes Rogerius Pictaviensis."

2. The mention of the £10 which used to form part of the "third penny of the County of Lancaster" in the Pipe Rolls from 1199 (Farrer, L.P.R., pp. 112, 126, etc.) might seem to imply the existence of an earldom in the 12th century. As is well known it was a common practice for an earl to receive the third penny of the judicial profits of the county from which he took his title. But elsewhere the above payment is described more accurately as forming part of the ferm of the honour of Lancaster (*ibid.*, p. 108 *n.*, *cf.* p. 104). It had been paid not by any county but by the towns of Nottingham and Derby. Probably it was the third penny of those boroughs, and this caused the confusion.

3. The whole formed an Honour, a name, as distinct from a barony, "generally reserved for the very largest complexes of land" (Maitland, *Hist. of Eng. Law*, i. 260).

4. G. Lapsley, *The County Palatine of Durham*, p. 8.

neighbouring county of Cheshire. In one respect more so, for while the bishop of Lichfield held his Cheshire lands directly of the crown and not of the earl, there was no tenant in chief between the Mersey and Morecambe Bay save Roger himself. He had his own sheriff and no doubt his own county court. If his fief had been inherited by a long line of his descendants its history would have been more closely parallel with that of Cheshire. But it frequently escheated to the crown, and though several times granted out again only once passed from father to son. In the intervals when it was not in the hands of the crown as an escheat, it ceased to yield any revenue to the king, and disappeared for the time from the royal accounts known as the Pipe Rolls.

Count Roger's own tenure of his mighty fief was of short duration. In 1102 he sided with his eldest brother the able but infamous Robert of Bellême, now earl of Shrewsbury, in his revolt against the new king Henry I. The whole family were expelled from England and forfeited their vast possessions. Roger retired to his wife's county and was still living in 1123.[1] They had three sons and three daughters, one of whom married a count of Angoulême and another a viscount of Limoges. Of Roger's character beyond what may be inferred of one of the "brood of Talvas" we know nothing.

Roger the Poitevin's lost Honour did not lose its individuality when he ceased to have any interest in it. In Norman feudal law the rule was, "once an Honour (or Barony) always an Honour." When such an honour passed by forfeiture or eschaet into the hands of the crown it still kept its name.[2] Accordingly Roger's fief continued

1. *Gallia Christiana*, ii. 619. He seems to have revisited England, for he witnessed the foundation charter of the see of Ely in 1109 (*Monasticon Anglicanum*, i. 483). He went to war with Hugh VI. (le Diable), seigneur of Lusignan, who claimed the county of La Marche, and bequeathed the quarrel to his son and grandson (Ord. Vit., iv. 103).

2. Pollock and Maitland, *Hist. of English Law*, i. 281

to be known as the "Honour of Roger the Poitevin" or the "Honour of Lancaster." This was a matter of greater importance than it might seem at first sight, for it meant that, although the tenants of the honour were tenants *in capite* of the King so long as he did not grant it out again, they were not liable to the same burdens as tenants in chief by enfeoffment. That, as Professor Maitland remarks, would have been obviously unfair as changing the terms of their tenure.

Henry, however, did not keep the honour long in his own hand. It was a convenient means of providing for his fatherless nephew, Stephen of Blois, whom he brought up with his own children. The exact date of the transfer is not recorded, but in a roll of the landowners in Lindsey[1] (north Lincolnshire), which appears to have been drawn up between 1115 and 1118, Stephen, now, by his uncle's grant, count of Mortain in Normandy, appears in possession of the lands held here in 1086 by Roger the Poitevin. There can be no doubt that he was given the whole honour. In 1123 he founded a monastery at Tulketh, near Preston, in Amounderness, in connection with the famous abbey of Savigny in his Norman county of Mortain, and four years later transferred it to the opposite side of Morecambe Bay by a grant of the whole district of Furness, exclusive of the land of Michael le Fleming, *i.e.*, the manor of Aldingham.[2] With the other daughter houses of Savigny, Furness Abbey was affiliated to the Cistercian order in 1148.

The Pipe Roll of 1130 shows Stephen in possession of "Between Ribble and Mersey." He held (before 1129)[3] four Leicestershire manors (Nether) Broughton, Knipton,

1. Ed. Chester Waters, pp. 20 sqq.
2. Farrer, *Lanc. Pipe Rolls*, p. 301.
3. Round, *Feudal England*, p. 211.

Croxton and Hareston, which had been royal demesne in 1086, but were afterwards always reckoned as part of the Honour of Lancaster. They may (with other portions of the honour) have been acquired by Roger the Poitevin after the date of Domesday, or added to it by Henry I. when he bestowed it upon his nephew. Over and above Count Roger's broad lands, Stephen received the great Honour of Eye (Suffolk) containing over 250 manors, forfeited in 1106 by Robert Malet; and his marriage with Matilda, the heiress of the Count of Boulogne, brought him not only her French county, but a vast English fief, in Essex and other counties, attached to it, and afterwards known as the Honour of Boulogne. Holding estates in at least seventeen counties, Stephen was perhaps the greatest landowner in England before he became king.[1]

Some difficulty has been caused by a charter of Randle Gernons, earl of Chester, when lord of "Between Ribble and Mersey," in the next reign, in which he confirms the estate of the monks of Evesham Abbey at Howick in the parish of Penwortham, "as they held it in the time of Count Roger the Poitevin, and *in the time of Randle my father.*"[2] This amounts to an assertion that Randle le Meschin who, for some years prior to 1120, was lord of Carlisle and its district,[3] which he is said to have been forced to resign on succeeding his cousin Richard, drowned in the White Ship, as third earl of Chester, had been in

1. "The wealth and influence conferred by the possession of these vast fiefs must have greatly assisted Stephen in obtaining the crown, as they also did, after he was King, in providing for his greedy followers" (Round, *Peerage Studies*, p. 168)

2. Farrer, *op. cit.*, p. 319.

3. Randle married the daughter and heiress of Ivo Taillebois, and it was probably as lord of Kendal, Ewecross and Copeland that he received a grant of Carlisle, which he held as a regality (*potestas Karleoli*), having his own sheriff (*Mon. Angl.*, iii. 583). On the determination of his tenure of Carlisle and his other northern possessions, whenever and however that took place, Henry I. retained them in his own hands, and divided them (excluding Ewecross) vertically for convenience of administration into two regions, each of which contained part of the old Scottish fief and part of the old Northumbrian fief to the south of it. Thus were laid the foundations of the counties of Cumberland and Westmorland. Their future was imperilled by the Scottish recovery of Carlisle under Stephen, and even after this danger had been surmounted the originally distinct districts which were brought together in them did not entirely lose their separate individuality.

possession of "Between Ribble and Mersey" at some date in the interval between Count Roger's forfeiture in 1102 and 1130, when it was certainly held by Stephen of Blois. We do not know the exact year in which Stephen received it, and a temporary tenure of it by Randle I. is therefore not absolutely impossible, but the absence of any other trace of its tenure by him, and the silence of Randle Gernon's charter as to the period of Stephen's undoubted lordship, dispose one to agree with Mr. Farrer that the reference to his father's time was a mere piece of vanity on the part of the earl, who, by ruthless self-seeking, made himself almost more powerful than the king in the days of the Anarchy.

The history of the Honour during Stephen's reign bristles with difficulties. Some of the most thorny of these arise out of the unexpected appearance of David, the Scottish king as lord of Lancaster. The chroniclers record Stephen's cession to him, or rather to his son Henry, of Carlisle, in February, 1136,[1] after his first invasion, and his subsequent recognition of Henry as earl of Northumbria, by the Treaty of Durham (1139).[2] But there is no mention of Lancaster. Yet, in 1149, they suddenly introduce David buying off the claims which Randle Gernons, earl of Chester, considered himself to have upon Carlisle, as son of its former lord Randle le Meschin, by ceding to him the honour of Lancaster.[3] This took place at a meeting at Carlisle in May of that year between David, Randle and young Henry of Anjou, who had just come over from the continent to concert a new attack upon Stephen. Sir James Ramsey, under the impression that the honour of Lancaster was still in the possession of

1. Symeon of Durham, *Hist. Regum* (contin. by John of Hexham), p. 287 (Rolls Series) Rich. of Hexham (Rolls Series), pp. 145, 146.

2. Sym. Durh., *op. cit.*, p. 199 ; Rich. of Hexham, p. 176.

3. Henry of Huntingdon (Rolls Ser.), ii. 323.

Stephen, suggests that David and Earl Randle had first to conquer it.[1] This hypothesis might seem to be borne out by David's advance with an army to Lancaster, where, however, Randle, for reasons to be discussed later, failed to join him. But the army is sufficiently accounted for by Stephen's northward march, and there is indisputable evidence that David was in actual possession of at least part of the honour. The Register of Shrewsbury Abbey contains two charters of the Scots king, addressed to his officers of "the Honour of Lancaster," confirming Roger the Poitevin's grants of the church of Kirkham and land at Bispham to the abbey.[2] What gave him the right to make these dispositions? Mr. Farrer is of opinion that Stephen's grant of the earldom of Northumberland to David's son, Henry, after the Battle of the Standard, carried with it that portion of the honour of Lancaster which had belonged to the earldom before the Conquest, that is to say all that lay north of the Ribble.[3] There is some difficulty, however, in supposing that Stephen, who was not then acting under pressure, tacitly surrendered a district which had not been held by any Norman earl of Northumberland, and which was his own private property.[4] If Stephen did not mean to cede it we must conclude that David had laid violent hands upon it and refused to give it up on the plea that it rightly belonged to the earldom, or that he obtained an unrecorded grant of it from the Empress Matilda.

David's charters to Shrewsbury Abbey are not easy to date. But as the second confirms to the monks not only Bispham but the church of Kirkham, it may be assumed

1. *Foundations of England*, ii. 438.
2. Farrer, *Lanc. Pipe Rolls*, pp. 274-5.
3. *Ibid.*, pp. xi, 274. The date of the grant was February, 1139, not 1138 as here stated.
4. Even in the earldom Stephen kept Bamborough Castle and Newcastle-upon-Tyne in his own hands. Is it likely that he surrendered Lancaster Castle?

to be subsequent to the settlement of a dispute which occurred about this time between the abbeys of Sées and Shrewsbury over the advowson of Kirkham. In this dispute the monks of Shrewsbury proved successful, and their Register contains the documents which adjudged the church to them. If these can be dated a step will be taken towards fixing the date of the charters in question. The first of these documents is a record of a compromise effected by Bernard, bishop of St. David's, in which Shrewsbury Abbey agreed to surrender a carucate of land at Bispham and the tithes of Layton and Warbreck, in return for the recognition of their right to the Kirkham advowson.[1] Bishop Bernard, whose death in 1147 gives us an inferior limit of date for this composition, was a staunch supporter of the empress. He assisted the legate, Henry of Blois, bishop of Winchester, in her reception at Winchester, in March, 1141, and seems to have been a member of her court during her short period of triumph.[2] As King David was also with her until her defeat at Winchester, in September, 1141, and Jordan, "the Scots' King's Chancellor," witnessed the document in which Bernard sets forth the result of his arbitration, it is tempting to infer that the parties brought their quarrel before the newly proclaimed "Lady and Queen of England," who referred it to the bishop of St. David's.

There is a difficulty, however, in the way of accepting this date. William Cumin was David's chancellor up to 1141 and accompanied the King to the empress's court.[3] But as in May he had seized the temporalities of the see of Durham, and was endeavouring to secure his election as bishop, he may have laid down his chancellorship and have been succeeded by Jordan.

1. Farrer, *Lanc. Pipe Rolls*, p. 276.
2. Round, *Geoffrey de Mandeville*, pp. 58, 93, 95.
3. *Brit. Mus. Charters*, vol. I. No. 19

If this was the case David's second charter to Shrewsbury Abbey, which is attested by Jordan the chancellor and Herbert, the chamberlain,[1] and given "at the new castle of Culgaith" (near Penrith), was probably granted soon after his hurried return to the north in September.[2] In any case these proceedings cannot be later than 1143 if we are right in the date we propose to assign to another document in the Shrewsbury Register. The failure of the empress seems to have dissatisfied the monks of Shrewsbury with the decision obtained from her party, and they secured another from William, archbishop of York.[3] This was William Fitz-Herbert, whose election was disputed, on suspicion of undue influence on the part of Stephen, until 1143, when he was recognised by Pope Innocent II. and consecrated on 26 September by Henry of Winchester.[4] Archbishop William's decision in favour of the Shrewsbury claim to Kirkham church was given in a synod at York, which must have been held shortly after his consecration for Henry of Winchester, at whose instance, he says, he took up the case, is called in his charter "sedis apostolicae legatus," so that the news of Innocent's death, on 24th September, 1143, and the consequent lapse of Henry's legation, had not yet reached York.[5]

We have thus documentary evidence that David was in

1. Both are witnesses of one of David's Carlisle charters (*Monast. Anglican.*, iii. 595), whose date, as it is also attested by John, Bishop of Glasgow, must fall between 1138 and 1147 (*Dict. of Nat. Biogr.*, xxix, 437)

2. Mr. Farrer (*op. cit.*, p. 275) can hardly be right in placing it before Bishop Bernard's decision.

3. *Ibid.*, p. 280. Mr. Farrer dates it 1144—1147

4. Sym. Dun., *Hist. Regum* Cont. by John of Hexham (R.S.) ii. 315.

5. Two of the witnesses, Ralph, bishop of Orkney and Benedict, Abbot of Whitby, had been present at his consecration (*ibid.*). The dispute between the two abbeys was reopened rather later by their rival claims to Diddlebury Church and the manor of Billingsley in the diocese of Hereford. Bishop Robert de Beton shortly before his death in 1148 arranged a compromise by which Shrewsbury gave up her claim on these in return for a further confirmation of Kirkham Church and the return of the consideration Bishop Bernard had awarded to the other party (Farrer, *op. cit.*, p. 282)

possession of Lancaster probably as early as 1141, and certainly before 1143.

Although his charters are addressed to the justices, etc., of "the whole Honour of Lancaster," it must not be inferred that David held or even claimed the entire fief which Roger the Poitevin had forfeited, and which Henry I. had given to Stephen. He did not even hold the whole of the present Lancashire. "Between Ribble and Mersey" is found in the hands of Randle Gernons, earl of Chester, before May, 1147,[1] two years prior to the cession of the "Honour of Lancaster" to him by David. A charter of Stephen, to be presently discussed, carefully distinguishes the "Honor de Lancastre" from the "terra de inter Ribliam et Mersam," as well as from the "land of Roger the Poitevin between Northampton and Scotland."[2] It is evident that even if the whole fief of Count Roger was already sometimes called the Honour of Lancaster,[3] the name could also be used in a narrower sense in which it covered only the part of the present county lying north of the Ribble, which had remained attached to Northumbria until the Norman conquest, since which Count Roger's new castle at Lancaster had arisen to form its natural centre. The fact that David only held the honour in this restricted sense supports the suggestion with which we started that he rested his title to it on the pre-conquest lordship of the earls of Northumberland over this district.

1. Farrer, *op. cit.*, p. 277. Randle's charter confirming Garston, etc., to Shrewsbury Abbey is witnessed by Roger, bishop of Chester, who went on the second crusade in May, 1147, and died at Antioch, April, 1148. The signature of Ralph, abbot of St. Werburgh, makes its date later than January, 1141. Two other charters of Randle as lord of "Between Ribble and Mersey" (*ibid.*, pp. 278, 326) are referred by Mr. Farrer to 1142, on the ground that they are granted at Chester with Cadwalader, "rex Walliarum" as a witness. But, 1142 is not the only or perhaps the most probable date for Cadwalader's presence at Chester. Some years later, when driven out of his last refuge in Anglesey, he is recorded to have taken refuge with the English, and this may be the occasion on which he attested these charters (*Dict. of Nat. Biogr.*, viii, 191.)

2. Farrer, *op. cit.*, p. 368.

3. The first clear instance is in 1164 (*ibid.*, p. 6). Perhaps at first "Honor Comitis Rogeri Pictaviensis" was the regular appellation of the whole fief (*ibid.*, p. 370)

We have still to account for the interest the earl of Chester had acquired in Count Roger's honour. The difficulty in this case is not the absence of any recorded grant, but the multiplicity of grants. There are no fewer than three, emanating respectively from David, Stephen, and Henry of Anjou. There is no question that the last-named is the latest in time, and that the date of David's grant was 1149, but whether that or Stephen's came first is disputed. Mr. Farrer awards the priority to the well-known charter in which Stephen grants to earl Randle the castle and honour of Belvoir, Grantham, Newcastle-under-Lyme, Rothley, Torksey, Derby, Mansfield, Oswaldbec wapentake, the honour of Blyth, all Roger the Poitevin's lands from Northampton to Scotland except those held by Roger de Montebegon in Lincolnshire, *the honour of Lancaster and the whole land between Ribble and Mersey* together with royal demesne in Grimsby and the land which the earl of Gloucester had *(habuit)* there, promising further to restore to him all his other land including his Norman estates and all his castles.[1]

Unfortunately we have only an ancient transcript of the original charter, and the omission of the witnesses robs us of a valuable clue to its date. Mr. Farrer, who, as has been seen, refers two grants by Randle as lord of "Between Ribble and Mersey" to the year 1142[2] is driven to assign an early date to this charter. He seems undecided between December, 1140, when Stephen is reported to have made some concessions to the earl in the vain hope of fixing his wavering allegiance[3] and February, 1141, when the King's defeat and capture at Lincoln placed him at the mercy of his enemies. The former date is adopted in the introduc-

1 Farrer, *op. cit.*, p. 367.

2 *Supra*, p. 169 *n.*

3. *Gesta Stephani* (Rolls Series), p. 69.

tion,[1] the latter in the text.[2] Both, however, are undoubtedly too early. The concessions of the charter are too extensive to be a sop to a waverer, and as Robert of Gloucester took possession of the captive Stephen's person after Lincoln, he is not likely to have allowed his own land to be granted away to the earl of Chester even if Stephen had been still acknowledged as king, which, of course, was not the case. It is clear, too, that at the granting of the charter earl Randle's castles and lands were under sequestration, which is quite inconsistent with so early a date. The evidence for his tenure of "Between Ribble and Mersey," in 1142, is also far from conclusive.[3]

A date eight years later is suggested by Mr. Round.[4] He regards this charter as Stephen's counterblast to king David's promise of the Honour of Lancaster to Randle, at Carlisle, in May, 1149.[5] It explains, he thinks, the earl's failure to join David and Henry at Lancaster, otherwise unaccounted for. Randle must have had some strong motive for a desertion which brought the campaign against Stephen to a sudden and inglorious end. A point in favour of a late date is the similarity of the concessions with which Henry brought Randle's support in 1153.[6] The inclusion in the grant of the part of the honour held by David, and promised by him to the earl in 1149 might seem to stamp it as a successful attempt to outbid the Scots king. There is apparently one difficulty, however, in the way of accepting Mr. Round's date, of which he was not

1. p. xi.

2. p. 368.

3. *Supra*, p. 169.

4. *Eng. Hist. Rev.*, x. 90.

5. *Supra*, p. 165. A charter of Earl Randle confirming Count Roger's grants to Lancaster Priory, and dated at Lancaster 27 July, without mention of the year, is referred by Mr. Farrer (*op. cit.*, p. 296) to his return from Carlisle on this occasion. Randle is alleged to have been acting on the Carlisle agreement, but the interval of two months would agree better, if the suggested date be correct, with the supposition that he acted under a new agreement with Stephen, who had an army in Yorkshire at that moment.

6. Farrer, *op. cit.*, p. 370.

aware. The earl of Chester was, as we have seen,[1] in actual possession of "Between Ribble and Mersey" at least two years before. This leads us to ask whether the contents of the charter are consistent with some earlier date intermediate between 1141 and 1149. The clearest indication of date it affords is the restoration of the earl's castles. This gives us 1146 as an upward limit, for it was not until Randle's arrest at Northampton that he surrendered Lincoln and other castles—in order to obtain his release.[2] It would perhaps be hazardous to infer from the use of the past tense in the mention of Robert of Gloucester's tenure of an estate at Grimsby that it was subsequent to Robert's death in October, 1147, but there does not seem to be any likely occasion for the restoration of Randle's castles before the summer of 1149. The fact that he was in prior possession of "Between Ribble and Mersey" is not really inconsistent with this date, for he had notoriously seized upon crown property without law or leave.[3] Stephen's charter, indeed, was for the most part a mere formal recognition of the position which the unscrupulous earl had won for himself by "Fist-right." Before 1146 he bestrode the North Midlands like a Colossus, ruling over "a third part of the realm," a great triangle with its angles at Chester, Lincoln and Coventry.[4] Stephen in that year wrested from him the two latter and probably other castles, and foiled his frantic efforts to retake them. It can hardly be supposed that he would give them back and re-establish Randle in a more formidable position than ever unless he could secure some return commensurate with the sacrifice. The break-up of

1. *Supra*, p. 169.

2. Ramsay, *Foundations of England*, ii. 428.

3. "Regales possessiones .... usurpando latissime invasit" (*Gesta Stephani* (R.S.), p. 118).

4. Round in *Eng. Hist. Rev.*, *loc. cit.*

the dangerous confederacy of 1149, alone, as far as we can see, fulfils this condition,[1] and there seems no alternative but to accept the date which Mr. Round assigns to Stephen's charter.

Sweeping as were the hard-pressed king's concessions, he can hardly have been sanguine enough to expect gratitude or loyalty from so slippery a customer. If he did he was soon undeceived. When Henry returned to the charge four years later he seized the first opportunity which offered to outbid Stephen for the support of the wily earl. Randle's price was high but it was paid. In a charter issued at Devizes Henry added to Stephen's concessions all the crown demesne in Nottingham and in Stafford and Staffordshire (save Cannock Chase), together with a number of great fiefs, of which the chief was the wide honour of William Peverel.[2] He would not, indeed, touch upon his uncle David's rights in the earl's favour, and so his grant of "the whole honour of Count Roger the Poitevin" was qualified by the words "wherever he has ought thereof."[3] The only part of the present Lancashire ceded to him by Henry was therefore the district "Between Ribble and Mersey," of which he was actually in possession. Henry no doubt regarded these extraordinary grants as a temporary concession which he would take care to withdraw as soon as he felt strong enough. But Randle might have given him much trouble, and he must therefore have been greatly relieved when this overmighty subject was removed from his path a few months after the Devizes charter by the revengeful hand, it is

1: The flying visit of Henry in 1147, accepted on the authority of the *Gesta Stephani* by Mr. Howlett, its editor, and Sir James Ramsay (F.E., ii. 431), but rejected by Mr. Round, would not in any case furnish a likely occasion, for Henry is said to have come to assist Randle's nephew Gilbert, Earl of Clare, who had been drawn into his uncle's conflict with Stephen.

2. Farrer, *op. cit.*, pp. 370-1.

3. The original reads (if correctly transcribed by Mr. Farrer): "ubicunque aliquid *haberetur*." But this must surely be an error.

said, of the disinherited William Peverel.[1] The disappearance of Earl Randle from the political stage, leaving a son and successor only six years old, enormously facilitated the conclusion of the compromise with Stephen which was embodied in the Treaty of Wallingford arranged in November of the same year. For it gave Henry an additional means of buying off the claims to the throne of Stephen's second and only surviving son, William, by the promise of all the fiefs which his father had held before he became king, in addition to the earldom of Warenne (Surrey), which he held in right of his wife, the "greatest heiress in the land," the daughter of the last William de Warenne, enlarged by the concession of the Rape of Pevensey, in Sussex, and the whole county of Norfolk. William had already succeeded his brother Eustace as count of Boulogne, and on his father's death (25th October, 1154) inherited the county of Mortain.[2]

The count of Mortain and Boulogne and earl of Warenne, as he was henceforth styled, had secured a very substantial equivalent for the uncertain prospect of a crown. The lord of such vast domains must be the new king's greatest subject as far as landed estate went, and only less formidable than Randle of Chester, inasmuch as his fiefs were more scattered and he himself was a young man of no conspicuous force of character. He does not seem to have come of age until some little time after Henry's accession.[3] In July, 1155, the honour of Lancaster was still in the King's hands.[4] His minority must have come

1. Ramsay, *Foundations of England*, ii. 448.

2. Round, *Peerage Studies*, pp. 168 sqq.

3. He would appear to have been born about 1134.

4. Farrer, *op. cit.*, pp. 285 (Charter to Shrewsbury Abbey). Henry's charter to Furness which Mr. Farrer (*ib.*, 318) ascribes to the same year was probably granted after William's death. The Comes Rog' who witnessed it (if that and not Eyton's Com' Reg'[inaldo] be the correct reading) is probably Roger de Clare, not Roger, Earl of Hereford, who resigned his earldom early in 1155.

to an end immediately after, for the honour does not appear in the Pipe Roll of the following year (1155–6), the first of the reign which survives. Henry did not leave him long in full enjoyment of a heritage whose magnitude was a menace to the crown. As soon as he felt strong enough he compelled William to resign into his hands all the crown lands and castles he held, and content himself with the fiefs which his father possessed before his accession [1] and his wife's lands. In the same summer of 1157 Malcolm—"the Maiden"—the new king of Scotland, had to surrender to Henry the northern territories which Stephen had ceded to his grandfather, and it is possible that earl William now first obtained actual possession of that part of the honour of Lancaster which David had held, the present hundreds of Amounderness and Lonsdale. At all events there is no mention in our authorities of an earlier retrocession of Lancaster, though the Scots may already have lost or evacuated this advanced position.[2] William accompanied Henry to Carlisle in January, 1158, and was there knighted by the King. His confirmation of an agreement between Furness Abbey and Michael le Fleming, dated at Lancaster, doubtless passed during this visit to the north.[3] A charter, granted by him at Tinchebrai, and dated 1158,[4] makes it almost certain that he left England with the King in August and never returned.[5] For he was certainly with Henry in the Toulouse campaign of 1159,[6] and died during the retreat

1. Rex fecit eum habere quicquid Stephanus pater ejus habuit in anno et die quo rex Henricus avus ejus fuit vivus et mortuus (Robert de Torigny (R.S.), pp. 92-3).

2. It is well known that the Scottish Kings, afterwards as occasion served, revived their their claim to Cumberland, Westmorland, and Northumberland. Attention does not seem to have been drawn to the fact that William the Lion also (in 1194) claimed the county of Lancaster "de jure predecessorum suorum" (Hoveden, iii. 243).

3. Farrer, *op. cit.*, p. 307.

4. Round, *Calendar of Documents in France*, p. 285; cf. p. 343 for a charter granted at Coutances.

5. Eyton, *Itinerary of Henry II.*, pp. 40 sqq.

6. Not 1160 as stated by Mr. Farrer following Dugdale (*op. cit.*, p. 287 *et passim*). In his introduction, however, he gives the date correctly.

in October. In the charter confirming Shrewsbury Abbey in possession of Garston, granted by his uncle, Reginald de Warenne, "ex parte comitis et mea," Reginald was more probably acting as his English representative during his absence abroad than as his guardian at an earlier date.[1]

The Honour of Lancaster probably formed part of his widow's dower until her remarriage in 1164 to the King's illegitimate brother Hamelin, the founder of the second house of Warenne. It was then resumed by the crown,[2] and appears regularly in the Pipe Rolls down to 1189, when it was regranted by Richard to his brother John. The honour was accounted for as a whole, and the Ferm or annual revenue derived from it was fixed at a round £200.[3] For the first two years (1164—1166) it was managed by Geoffrey de Valognes, who may have been earl William's sheriff, and his account is rendered under Yorkshire in the first year, and under Buckinghamshire in the second. But from Michaelmas, 1166, William de Vesci, sheriff of Northumberland, rendered the accounts of the honour, which are entered under that county. On the removal from office of Vesci, with the other baronial sheriffs, at Easter, 1170, a separate sheriff (Roger de Herleberga) was again assigned to the honour, an arrangement which was not henceforth departed from. Nevertheless, its accounts were still occasionally attached to those of Yorkshire (1171–2) and Northumberland (1176–7). Indeed, in 1181–2 the clerk of the Exchequer apologises for making Lancastra an entirely separate heading, "quia non erat ei locus in Northumberland."[4] Of course it had no integral connection with either of these counties any

1. As supposed by Mr. Farrer, who prints the charter (*op. cit.*, p. 287).
2. In return Mr. Farrer suggests (*op. cit.*, p. 6) for the restoration of the county of Norfolk and rape of Pevensey. But it is incorrect to say that these had been seized *after* the death of her first husband. See *supra*, p. 175.
3. This only included fixed charges, profits of crown demesnes, rents of thegn-lands, etc. Casual profits were accounted for separately.
4. Farrer, *op. cit.*, p. 46

more than it had with Buckinghamshire. Its association with them was a consequence of the method of arrangement adopted in the Pipe Rolls. Normally the accounts were arranged under shires and escheated honours were entered under the counties in which their *capita* lay.[1] The honour of Lancaster, which extended into many counties but whose *caput* was in none of them, did not fit well into such a scheme, but for a time it was occasionally grouped for the sake of symmetry with one or other of the two nearest counties.[2] With a sheriff of its own, however, and including a continuous district, not in any shire which was already called a county, it soon outgrew this somewhat half-hearted arrangement.

The first mention of a *county* of Lancaster as distinguished from the *honour* is in the Pipe Roll of 1168–9. The sheriff there accounts for a sum of 100 marks "de Communi Assisa Comitatus de Lancastria pro defaltis et misericordiis."[3] From the roundness of the sum Mr. Farrer concludes that it does not represent fines and amercements levied by royal itinerant justices, but a composition for offences against the forest. The important point, however, is that for some purposes, at all events, a county of Lancaster is already recognised. Next year the "whole county of Lancaster" is entered as owing 200 marks, with which sum it had bought a postponement for three years of the View or Reguard of the Forest normally held triennially.[4] In 1183 and 1185 the county was fined for concealing pleas of the crown.[5] A distinction is drawn in 1187 between knights of the honour residing in the

1. Yet exigencies of space alone seem occasionally to have determined their position. Mildenhall, for example, is once entered under Northumberland instead of Suffolk.

2. Carlisle seems to have given similar trouble. The clerk was apparently doubtful whether to treat it as an honour in the hands of the crown or as a distinct county. Sometimes it is entered under Northumberland or Yorkshire, sometimes independently.

3. Farrer, *op. cit.*, p. 13.

4. *Ibid.*, p. 16; Turner, *Select Pleas of the Forest* (Selden Soc.), p. lxxv.

5. Farrer, *op. cit.*, pp. 49, 55.

county and those "extra comitatum."[1] Except that it is not a distinct fiscal unit the county of Lancaster is a fully organised shire. Its northern half is now, and has no doubt for some time been divided into wapentakes. We have mention of the wapentake of Lonsdale[2] and the wapentake of Furness[3] (the present Lonsdale north of the Sands). Yet, as late as 1179, in the division of England into judicial circuits there is no mention of a county of Lancaster but only of "Inter Rible et Meresee" and "Lonecastre."[4] Are we to see in this a mere official clinging to antique nomenclature, or did the justices hold separate assizes for the two districts once distinct but now united in a single county?[5] From 1202, when extant records begin, the king's judges always sat at Lancaster, but this may not have been so from the first.[6] In any case, the two regions retained a certain individuality, and long after this the name "Between Ribble and Mersey" was still in use. An old quatrain of uncertain date runs:—

> "When all England is alofte,
> Safe are they that are in Christis Crofte,
> And where should Christis Crofte be
> But between Ribble and Mersey."[7]

For nearly five years from the summer of 1189 the whole honour of Lancaster was in the hands of John, Count of Mortain, as part of the huge appanage including six counties[8] bestowed upon him by his brother Richard immediately after his accession, and during that period it

1. *Ibid.*, p. 64.
2. *Ibid.*, p. 68.
3. *Ibid.*, p. 55.
4. Hoveden (Rolls Series), ii. 191
5. In the Iter of 1176 (*ibid.*, ii. 88) Copeland is mentioned as well as Cumberland, but in 1179 Cumberland alone. Both Richmondshire and Yorkshire appear in 1176, and there is a record of a session of the royal justices at Richmond in 1187 (*Final Concords* (Lanc. & Chesh. Record Soc.), p. 1).
6. *Ibid.*, p. x. In 1176, however, "Loncastre" only appears.
7. Baines-Croston, *Hist. of Lanc.*, i. 42; Ormerod, *Hist. of Cheshire*, i. 731
8. Derbyshire, Nottinghamshire, Somerset, Dorset, Devon and Cornwall. See the map in Miss Norgate's *John Lackland* (p. 27), which however does not indicate the part of the Honour, which lay *extra comitatum*.

disappears from the Pipe Rolls. On its resumption about Easter, 1194 (in consequence of John's treason), and reappearance in the royal accounts, a certain new looseness of terminology is at once observable. The county and the honour are no longer so carefully distinguished. Fines which were certainly due from the county only are assigned to the honour.[1] On the other hand *Comitatus* is very generally used where the whole honour is referred to. In 1199 Theobald Walter accounts for the ferm "of the Honour of Lancaster" for the year, excluding a term in which Stephen de Turnham "habuit Bailliam *Comitatus*."[2] An addition of 100 marks to the ferm in 1200 is described as "Crementum (*i.e.*, incrementum) *Comitatus*."[3] Arrears of the ferm of the honour appear in the form "de remanenti firma *Comitatus*."[4]

1. "De communi misericordia *honoris* de Lancastra" (Farrer, *op. cit.*, p. 76). The same fine had appeared in 1189 as "de communi misericordia *comitatus* de Lancastra" (*ibid.*, p. 72)
2. *Ibid.*, p. 104
3. *Ibid.*, p. 126
4. *Ibid.*, p. 163. So too the chroniclers speak of John receiving a grant of the *County* in 1189 (Wendover, i. 371; Hovenden, ii. 6), though he clearly obtained the whole honour. The mention in the Pipe Roll of 1190—1200 of the "third penny of the County of Lancaster" is very puzzling. The sheriff is allowed a deduction from his ferm of £10 granted to Earl Ferrers "which he (the sheriff) used to receive from the men of Nottingham, and which used to belong to the third penny of the County of Lancaster" (Farrer, *op. cit.*, p. 112). The third penny of a county was a third of the profits of its pleas, often if not always assigned to the earl of that county. But this sum had been derived from another county. The grant to Earl Ferrers had been made in 1199, and the entry on the Pipe Roll of that year (*ibid.*, p. 104) is not in the same terms. The Sheriff of Lancaster is allowed to deduct the £10 which he used to receive every year "per manum vicecomitis de Notingham ad firmam Comitatus Lancastriae quae datae sunt Comiti de Ferrariis." Robert de Ferrers was recreated Earl of Derby by a charter dated 7 July, 1199 (Dugdale, *Baronage*, i. 260), with a grant of the third penny of the pleas of that county "to hold in as ample a manner as any of his predecessors had held the same." The two shires of Derby and Nottingham had always been closely associated and were managed by the same sheriff, and Mr. Farrer (p. 108) concludes that this £10 was part of the third penny of those shires which had been granted to Roger the Poitevin, and was now given to the earl who held the rest of the third penny. There is this difficulty, however, that the charter to Ferrers grants the third penny as it had been held by his predecessors. Had the alienation been more recent than Mr. Farrer supposes? A further difficulty is introduced by the statement in the *Testa de Nevill* (i. fo. 74) that the £10 had been paid by the towns of Nottingham and Derby in equal moieties. It is worth noting that the payment is here said to have been made to the Honour of Lancaster, not the County. The different accounts of the payment are very difficult to reconcile. On the whole the most probable view is that one of the three early holders of the Honour, Roger the Poitevin, Stephen of Blois, and his son William, had been granted a fixed charge to the amount in question on the revenue derived from the towns of Nottingham and Derby, and that it had really nothing to do with the third penny either of Nottinghamshire and Derbyshire or of the County of Lancaster. How the Clerk of the Exchequer came to describe it as part of a Lancaster third penny must be left to conjecture. The only suggestion I can offer is that "tercius denarius Comitatus Lancastriae" is a compressed way of saying that the third penny of the two boroughs had been enjoyed by the holders of the county (honour) of Lancaster. The third penny of a borough was a third of its whole revenues and was not necessarily granted to a local magnate (Round, *Geoffrey de Mandeville*, p. 290).

It should be observed that the assertion in the Ferrers charter that his predecessors had held the third penny of the pleas of the County of Derby conflicts with Mr. Round's view (*ibid.*, p. 293, cf. *Dialogus de Scaccario*, ed. Crump, p. 204) that the silence of the Pipe Rolls shows that they cannot have received it.

The frequent use of "county" where "honour" would until recently have been employed must no doubt be traced to the fact that Lancaster was now definitely recognised as one of the English shires, to which the remainder of the honour formed a comparatively unimportant appendage. There was practically no demesne outside the county, the rest of the honour being held by knight service and so far as profits of justice contributed to the ferm they were derived from the county and wapentake courts of the shire. The additional sums demanded from the sheriff and the increased rent of the manors in the county let at fee farm was probably not wholly due to royal extortion, but an indication of some growth of the shire in wealth and population.[1] There was therefore a certain propriety in the description of the ferm as the ferm of the county. But though the fiscal authorities might make these concessions to the logic of facts the honour and the county are never confused, as far as we have observed, in other official documents. It is as an honour that the Lancaster fief is mentioned in Magna Carta[2] and as an honour that it was granted out two years later by John to his faithful adherent Randle de Blundeville, earl of Chester.[3]

When it was necessary to state in which part of the honour lands were situated they were said to be "in comitatu" or "extra comitatum" or their position was defined more picturesquely by reference to the mountain boundary of the county on the east as "infra Limam" or "extra Limam."[4]

1. Farrer, *op. cit.*, p. 137.
2. c. 43.
3. *Cal. Rot. Pat.* (Record Commission), p. 84.
4. In 1212 an inquisition was held as to lands alienated or granted away "within the Lyme in the County of Lancaster" (*Testa de Nevill*, ii. fol. 808). The jurors reported (*inter alia*) that "In the barony of Penwortham there are 5 knights fees within and without the the Lyme" (*ibid*, ii. 816).

Chapter II.

The Lancashire Baronies.

The barony of Manchester and the Lancashire baronies generally must, we have seen,[1] be distinguished from those baronies which had always been held in chief of the crown, and the tenure of which entitled their holders down to the reign of Edward I. to summons to the king's feudal council. The former were bestowed not by the crown but by a great tenant in chief, and even when the Honour of Lancaster lapsed by eschaet into the hands of the crown, its barons, though they now held their baronies immediately of the king, were not placed upon an equal footing with other tenants in chief.

Barons who were tenants of mesne lords seem to have been not uncommon in the eleventh and twelfth centuries, more common than is usually suspected. That the lords of the great franchises of Chester and Durham had barons under them is indeed well known. But the unique position occupied by the two palatine counties from the 13th century onwards, is apt to obscure the fact that in the Norman period there were other great immunists who were less successful in resisting the vigorous centralisation applied by Henry II. The existence of barons was certainly not a feature peculiar to the immunities of Chester and Durham in the 12th century. The earl of Richmond had his barons of Richmondshire,[2] the chief tenants in earl Warenne's great Sussex fief, the rape of Lewes are called "barones consulis" in a charter granted

1. *Supra*, p. 163.

2. *Facsimiles of Charters in Brit. Mus.*, vol. i. No. 33; Gale, *Registrum Honoris de Richmond*, App. pp. 100-1; Whitaker, *Hist. of Richmondshire*, ii. 93.

An explanation of the occurrence, in the charters of the earls of Chester in the Norman period, of barons whose descendants were not so accounted, differing from that offered above, was put forward by the great antiquary Dugdale.[1] Applying the analogy of the "barony by writ" he suggested that these were men who, though not qualified by tenure, were summoned to the earl's council by reason of their special wisdom; such summons no more created an hereditary barony than did a writ to a 14th century parliament. But the idea that the Norman earls of Chester had barons by writ two centuries before their suzerain the King will scarcely meet with acceptance. The fact which this rather rash hypothesis was devised to explain may be much more satisfactorily accounted for on the assumption, supported, we have seen, by a certain amount of evidence, that "baron" was originally a term of somewhat elastic application, covering a considerable variety of military tenants both of the king and of his tenants in chief. When in process of time it took on a more technical meaning in the highest rung of the feudal ladder, and was reserved for the greater tenants in chief, it naturally ceased to be applied to the tenants of mesne lords except where such tenants occupied a position comparable to that of the king's barons. This was the case in the two great palatine counties. The survival of the title here in the case of a few leading tenants has led some who were not aware of its previous history to assume that a palatine earl had barons by virtue of his quasi-regal position, just as he had a court which was quite independent of the king's courts. No doubt from the 14th century onwards it was natural enough to look upon the baronage of these palatinates as a sort of local house of lords, but the

1. *Ibid.*, i. liv. *n.*

baronum meorum" at Lancaster.[1] As late as the 14th century certain tenants of the honour in Lancashire were called barons and their fiefs were described as baronies. Who were these barons? The older antiquaries in whose view it was a privilege peculiar to an earl palatine to have barons under him, claimed this dignity for Roger of Poitou, the first lord of Lancaster. "The barons who held of Roger," says Harland, "were styled *Barones Comitatûs*, or barons of the county, and held free courts for all pleas except those belonging to the earl's sword."[2] Roger, like earl Hugh of Chester, was supposed to have created by virtue of his semi-regal powers a definite number of barons endowed with extensive privileges. A manuscript list, quoted by Harland,[3] assigns to Roger fourteen barons, the *capita* of whose fiefs were:—

1. (West) Derby.
2. Widnes.
3. Warrington.
4. Manchester.
5. Rochdale and Tottington.
6. Clitheroe.
7. Newton (in Makerfield).
8. Penwortham.
9. Hornby.
10. Cartmel.
11. Glaston (? Muchland).
12. Ulverston.
13. Nether Wyresdale.
14. Weeton.

1. Beck, *Annales Furnesienses*, p. 120; Farrer, *Lancashire Pipe Rolls*, p. 307. The witnesses were: Reginald de Warenne, the earl's uncle, Pharamus de Boulogne, William de Lancaster of Kendal, Adam de Montbegon of Hornby, William de Yseiny of Whittington, near Lancaster, Roger, son of Ralph, Richard Bussel of Penwortham, Richard le Boteler (Butler) of Warrington, William Malebisse, Robert de Boyvill, and Eustace the Chancellor.

2. Harland, *Mamecestre*, i. 33.

3. *loc. cit.*

barony of Newton in Makerfield appears to have been cut out of the demesne in the latter years of the 12th century.[1]

Hornby first came into the possession of the Montbegon family under Stephen or in the early part of Henry II.'s reign by the marriage of Adam de Montbegon with one of the daughters of Adam, son of Swain, who died before 1159. The latter's father, Swain, son of Alric, is regarded as the original grantee, but the date and terms of his enfeoffment are unknown, though it is conjectured that Hornby, with estates in Cumberland and Yorkshire, was conferred upon him by Henry I.[2] The Montbegons, however, held some lands of count Roger the Poitevin, for in or before 1094 Roger de Montbegon and his wife Cecilia gave to the Abbey of St. Martin at Sées, the tithes of their demesne between Ribble and Mersey "and even beyond the river called Ribble."[3] Their land south of the Ribble may probably be identified with the Tottington fief which was afterwards held by the service of two knights. The association of Rochdale with Tottington belongs to the much later days when the Lacies, earls of Lincoln, acquired these adjacent estates of the barons of Hornby and the thanes of Rochdale.[4]

The Fleming lordship of Muchland, or Aldingham, can be traced back to 1127, when Count Stephen's grant of Furness to the abbey of that name, specially excluded the lands of Michael le Fleming.[5] He was, perhaps, one of the Flemish immigrants enfeoffed by Henry I.

Of older settlement in the honour were the Bussels of Penwortham, though it has been doubted whether they

1. *Ibid.*, p. 262.

2. *Final Concords* (Lanc. and Chesh. Rec. Soc.), vol. i. p. 57.

3. Round, *Calendar of Documents Preserved in France*, p. 236.

4. Rochdale, like many Lancashire lands, was still held in thanage in 1212.

5. *Lanc. Pipe Rolls*, p. 302. Henry III. transferred the crown rights over Aldingham to the Abbey (*Furness Coucher Book*, p. 78).

rendered to the lord of Lancaster it was only a part of a barony whose *caput* (Halton) lay in another county.

Penwortham, Warrington, Manchester and Clitheroe are all spoken of as baronies at one time or another, though the first is the only one of the four which appears in the inquest of 1212 under that title.[1]

John Butler is styled "Baro de Weryngton" in the "Scrope and Grosvenor Roll" (1383).[2] We hear of a "Curia Baronie de Mamecestria" in a record of the year 1282,[3] and an inquisition taken in 1373 describes the manor of Dalton (in West Derby Hundred) as held of the barony of Manchester.[4]

On the other hand fiefs, whose creation was undoubtedly subsequent to Count Roger's time, are entitled baronies. Hornby, which is so styled in 1242,[5] is perhaps a dubious case, for it may have held that rank under the predecessors of the Montbegons. But the lordship created for Furness Abbey in 1127 ranked as a barony, and had a baronial court,[6] the barony of Ulverston in mentioned in 1391,[7] and Newton in Makerfield, which we have seen was not granted to the Banasters until the end of the 12th century, figures as a barony in a document of a date about half a century later.[8]

The lordship of Nether Wyresdale (Garstang) stood in a somewhat similar position to that of Widnes at the other end of the county. The family of Lancaster who held it in

1. *Ibid.*, ii., 816; *Lanc. Pipe Rolls*, p. 379. Clitheroe was usually called an Honour perhaps because the castle had once been the *caput* of Roger the Poitevin's fief. I have not been able to find any instance in which Tottington appears as a barony *eo nomine*.
2. Ed. Harris Nicolas, i. 245.
3. Harland, *Mamecestre*, i. 136. The Furness case below shows that this is not a misreading of the ordinary "curia baronis" which could be applied to any feudal Court. Professor Maitland notes the kind of Court in question but not the name (*Select Pleas in Manorial Courts*, pp. xvii., xliii.)
4. *Inq. Post Mortem* (Record Commission), ii. 327.
5. *Testa de Nevill*, ii. f. 802.
6. "'Servitium faciendi sectam ad Curiam Baroniae suae de Furnes" (*Furness Coucher Book* (Cheth. Soc.), p. 311.)
7. *Ibid.*, p. 432.
8. *Cockersand Chartulary* (Cheth. Soc.), p. 643.

military tenants, and the description of a certain mass of lands as a barony was probably here, as in the case of tenants in chief,[1] a somewhat later recognition of an obvious practical distinction. Tenure by barony, as Professor Maitland points out, was not a distinct mode of tenure, but only a particular form of tenure by knight service.[2] In the extent and compactness of their fiefs and in the rights of jurisdiction they enjoyed within them the greater feudatories of the Honour of Lancaster were quite on a level with many of those barons of the realm who, by force of circumstances rose above the general body of tenants in chief. Few barons of the realm held a central court for their whole fief as the Lancashire barons did.[3] Lancashire, too, retained traces of its original position as an exceptional franchise, and could hardly fail to be affected by the tendency of the neighbouring palatine earldom to develope a baronage which was a kind of reflection of the baronage of the realm.[4] It is thus no doubt that we must explain the survival of the title of baron in Lancashire when, in other great fiefs in which it was used in the Norman period, Richmondshire for instance,[5] it had disappeared.

A phrase in a charter of a baron of Newton in Makerfield, of the middle of the 13th century, might indeed be interpreted as implying that certain high judicial franchises were of the essence of barony. In confirming grants of lands at Hindley and elsewhere to Cockersand Abbey, Robert Banaster reserved for himself and his heirs "Infangenthef" and "Utefangenthef" over the tenants of these lands "prout ad me pertinet racione

1. The Empress Matilda's promise of a barony to Geoffrey de Vere in 1142 is noted by Mr. Round (*Geoffrey de Mandeville*, pp. 182, 439) as a very early instance of the use of the term.
2. *Hist. of Eng. Law*, i. 279.
3. *Ibid.*, i. 586.
4. *Supra*, p. 185.
5. *Supra*, p. 182.

12 (66) After *voluerit* there is inserted *exceptis viris religiosis et Judaismo* and the last seven words of the clause are of course omitted.

26 (66) After *religionem* there is added *et Judaismum.*

20 (67) The Bolton clause reads: *Item burgensis quando moritur si non habuerit heredem poterit burgagium suum pro voluntate sua aliis legare exceptis viris religiosis et Judeis salvis jur nostro et heredibus nostris.*

21 (70) After *necessaria* there is inserted *ibidem p ipsum.*

22 (70) After *relevium* Ferrers' clause reads *nobis dab seu heredibus nostris.*

7 (74) *De suspicione latrocinii* for *de latrocinio.*

25 (74) After *placita* there is inserted *que ad burg pertinent.*

3 (79) *Infra le halmote*[1] for *infra Laghemote.*

16 (89) The clause ends *faciet assisam ville pertinen ad tale delictum secundum consuetudi aliorum burgorum.*

23 (91) *Baronum* omitted at the end.

15 (92) After *foris* the clause runs *sive in omnibus t nostris erunt quieti de tolneto salvis liberta nostris per cartas nostras prius datas et usi*

10 (98) This reads: *Si mollendina vel mollendinu habuerimus que molare possint dicti bur expectabunt per duos dies continuos molent ad vicesimum granum. Et si dictum spacium molari non possint ubicunque voluerint.*[2]

1. In the survey of the manor of Manchester in 1320 the four regular meet Portmoot every year are once called halmotes (Harland, *Mamecestre*, p. 287). are distinguished from the irregular *laghmotes*. The application of the name courts perhaps tells us that the latter in seignorial boroughs were old mano adapted to the new burghal conditions.

2. *Cf.* the other instances of limitation of the lord's right given *supra*, p. 98

against the burgesses of other towns who enjoyed exemption from being impleaded in any but their own courts. *Cf.* Pollock and Maitland, *Hist. of Eng. Law*, i. 643.

p. 81. Miss Bateson informs me that her forthcoming volume on "Borough Law," to be published by the Selden Society, will contain citations proving that the burgess's power of distraining *foreigners* for debt was unlimited by any supervision of the borough reeve.

p. 112. Perhaps the argument from the late date of the grant of a market to Stockport is stated rather too broadly. In the country at large a borough might conceivably have to wait a considerable time before obtaining a market, for that depended upon a crown grant, whereas the creation of a borough could be effected without such a grant. But as Robert de Stockport declares (*supra*, p. 62) that he founded his borough in accordance with a charter which he had obtained from the earl of Chester it seems strange that he should obtain it without at the same time securing the grant of a market, and that such a grant should have been deferred for more than thirty years.

p. 132. Amabil de Tregoz is described by Mr. Farrer (*Trans. Lanc. and Chesh. Hist. Soc.*, xvii., 37) as a daughter of Albert Grelley II., and by Mr. Croston (*Baines*, ii., 28) affiliated to Albert III., but the "Rotuli de Dominabus" (p. 41) are quite clear as to her parentage. "Amabilia de Tresgoz est de donatione Domini Regis et fuit filia *Roberti* Greslei." The entry in the "Testa de Nevill" referred to is subsequent to 1232 and runs as follows:—"Galfridus Tregoz tenet totam villam de Bildestorp [Bilsthorpe, Notts.] in dominico de socka de Maunsfeld de dono Roberti de Greule cum filia sua in

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